United Nations CCPR/C/CPV/1

International Covenant on Civil and Political Rights

Distr.: General
29 August 2018

Original: English
English, French and Spanish only

Human Rights Committee

Initial report submitted by Cabo Verde under article 40 of the Covenant, due in 1994*, **

[Date received: 9 February 2018]

* The present document is being issued without formal editing.

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List of Abbreviations

PIH/ACP	Preliminary Inter-parties Hearing
CC	Civil Code
EC	Electoral Code
CJM	Code of Military Justice
CNDHC	National Commission for Human Rights and Citizenship
CNE	National Electoral Commission
CNPD	National Commission for Data Protection
PC	Penal Code/Criminal Code
CCP	Code of Civil Procedure
CCP	Code of Criminal Procedure
CRC	Civil Registration Code
CRCV	Constitution of the Republic of Cabo Verde
CSMJ	Superior Council of the Judiciary
CSMP	Superior Council of the Public Prosecution Services
DEF	Directorate of Foreigners and Borders
DGSPRS	General Directorate of Prison and Social Reintegration Services
EPSP	Statute of Prison Security Personnel
GBV	Gender-Based Violence
ICCA	Cabo Verdean Institute for the Child and Adolescent
ICIEG	Cabo Verdean Institute for Gender Equality and Equity
IDSR	Demographic and Reproductive Health Survey
INPS	National Institute for Social Security
LDRM	Law on the Right to Assembly and Manifestation
LE	Foreigner's Law
LEMPL	Law for the Execution of Custodial Measures
LESE	State of Siege and Emergency
LIC	Criminal Investigation Law
LPDP	Law on the Protection of Personal Data
LPJ	The Ombudsperson Law
LREMC	Business and Media Registry Law
LT	Television Law
GBVL	Gender-Based Violence Law
ICCPR	International Covenant on Civil and Political Rights
MPs	Members of Parliament
NA	National Assembly
NP	National Police
PPS	Public Prosecution Service
RUA	Rules on the Use of Weapons
SCJ	Supreme Court of Justice

I. Introduction

1. Cabo Verde became party to the International Covenant on Civil and Political Rights (ICCPR) on Aug/06/1993 and entered into force for the country on Nov/6/1993. In fulfilment of the obligation contained in article 40(1) a), this document was prepared in order to present the measures adopted on the rights enshrined in the Covenant and the progress made towards its implementation. This document was drafted based on the Guidelines and sought to clarify the recommendations made in the "Concluding Observations of the Human Rights Committee" (104th Session, held in New York, March/12–30/2012).

2. The preparation of this Report was coordinated by the National Commission for Human Rights and Citizenship (CNDHC), in consultation with the Ministry of Justice. The data and information presented are the result of extensive input gathering from government entities, court and civil society organizations. Socialization of the final version of the document was carried out with the participation of representatives of the various sectors involved, whose suggestions were duly absorbed. Cabo Verde has been engaged in disseminating the provisions of the ICCPR to strengthen the protection of the rights envisaged in the various spheres of social life. In recent times, the recourse to this instrument has been done in decisions handed down by the highest judicial body and in national human rights action plans.

II. General Information

3. The ICCPR is published by Law 75/IV/92 and entered into force on Nov/6/1993. Cabo Verde did not lodge any reservation, nor did any declaration relating to the interpretation of its provisions. Cabo Verde is aware of the importance of submitting reports to the Committee. Although it has not yet done so, the obligations and implementation of the rights listed in the Covenant have been the subject of priority concern and treatment.

4. The CNDHC is today a public entity in charge of the protection and promotion of Human Rights, Citizenship and International Humanitarian Law, also serving as an advisory and monitoring body for public policies in these areas. The current design aims to guarantee a degree of independence as the mandate of its President does not overlap at all with the Government's mandate, as well as rules guaranteeing its stability and that allow the performance of their functions with maximum independence. After the Universal Periodic Review, the CNDHC worked on a new proposed statute so that its institutional layout would comply with the Paris Principle (still under review). In 2014, the Ombudsperson was installed. It is an independent body, elected by the National Assembly (NA), whose role is to work in the defence and promotion of the rights of citizens against the actions and omissions of the public authorities. His/her mandate is not confused *ratione materiae* with the CNDHC.

5. It should also be noted that Cabo Verde's legal system is hierarchical and guided by the principles and rights enshrined in the Constitution of the Republic of Cabo Verde (CRCV) as well as the superiority accorded to relevant human rights treaties as the ICCPR. Therefore, in the infra-constitutional sphere, from 1994 to this date, several pieces of legislation related to the rights of the ICCPR were approved, always seeking to respect the said international instrument.

III. Implementation of the Covenant's Provisions

Article 1

6. Cabo Verde declares itself as a sovereign, unitary and democratic republic, which holds the right of peoples to self-determination and independence as one of the basic

principles. It is the duty of the State to defend independence, guarantee unity, preserve, enhance and promote Cabo Verdean identity. The territory is unitary and composed of 10 islands and islets that historically have always been part of the archipelago, as well as the interior waters, archipelagic waters, the territorial sea, the respective beds and subsoils, as well as overlying airspace, including rights over the contiguous zone, exclusive economic zone and continental shelf. The Constitution prohibits the alienation of the territory or rights of sovereignty it possesses and refuses to establish foreign military bases in its territory.

7. The principle of self-determination is promoted and recognized by Cabo Verde to all States participating in the international community, in the same terms as the Charter of the United Nations and the Declaration on Principles of International Law Concerning Friendly Relations and Co-operation between States. Other constitutional provisions reinforce the principle of self-determination, such as the prohibition on the constitution of political parties that violate this principle (article 57, CRCV).

8. The CRCV indicates as guiding principles of its foreign policy the principles of national independence, respect for international law and human rights, equality between States, non-interference in the internal affairs of other States, cooperation with all other peoples and peaceful coexistence. In view of its historic course marked by colonization, slavery and an autocratic system of government, Cabo Verde also supports the struggle of peoples against any form of political or military domination or oppression, and calls for the abolition of all forms of domination, oppression and aggression.

9. The National Defence is the entity responsible for dealing with any form of threat or aggression against the unity, sovereignty, territorial integrity and independence of Cabo Verde, the freedom and security of its population, and the democratically established constitutional order. Military service is mandatory, by law, which provides for the requirements for recognition of the status of conscientious objectors. It is not possible to have constitutional revision on matters relating to national independence, to the integrity of the national territory and to the unity of the State, and the requirement of special majorities in the case of laws that deal with national sovereignty, national symbols, national territory and fundamental rights, freedoms and guarantees.

10. The Law on National and Local Referendum was approved (2015), which aims to give citizens a privileged way of exercising political power. The principle of respect for the autonomy of local power and democratic decentralization is the cornerstone of the constitutional system. Local communities must be consulted, and their consent taken into account in the decision-making process that affects their rights and interests. Local authorities are true institutional guarantees. The municipal elections have been held every four years.

Articles 2 and 26

11. The CRCV provides for the inviolability and inalienability of human rights and recognizes the equality of all citizens, as well as foreigners residing in national territory, before the law and with regard to the enjoyment of civil and political rights. The fundamental rights and duties of individuals are expressed in the CRCV. It is composed of the list of rights, freedoms and guarantees (Title II) and economic, social and cultural rights and duties (Title III). With respect to the first group of rights, CRCV enshrines that other rights, freedoms and guarantees even though not expressly provided for in the Constitution, could be incorporated and recognised in Cabo Verde once provided for in human rights treaties or in infra-constitutional laws. Moreover, with regard to the incorporation of international law into the Cabo Verdean legal order, the CRCV indicate that international law has a privileged place and that all infra-constitutional laws must comply with it.

12. The CRCV grants to the fundamental rights, freedom, and guarantees special legal treatment expressed by: their immediate applicability, exempting them for the need of legislative interposition for its effective implementation; prohibiting their restrictive interpretation, in order to always favour a more extensive understanding of the law; the

linking of public and private entities in their realization, meaning that the public authorities in the exercise of their legislative, executive and judicial functions are bound by such rights.

13. Equality and non-discrimination are guaranteed. Under the heading "principle of equality", "all citizens have equal social dignity and are equal before the law, nobody can be privileged, benefited or harmed, deprived of any right or exempt from any duty due to race, sex, ancestry, language, origin, religion, social and economic conditions or political or ideological convictions". The legal system safeguards not only the subjective right to equality, but also, as already provided by the country's Constitutional Court, the principle of equality as a structuring principle of the Republic that "covers the entire legal system and presupposes equality between individuals in civil law, political participation, citizenship, the balance of well-being and the supreme value of the dignity of the human person" (Judgement 7/2016, Rapporteur JC J. Pina Delgado).

14. The right to equality shall apply comprehensively *ratione personae*, combined with the principle of universality, which allows it to reach all citizens and foreigners residing or who are in national territory. It is also interpreted in all its dimensions, including, the right of everyone to equal treatment before the law; the right not to be diminished or treated under any pretext to the detriment of others; the right that no one may be privileged or illicitly favoured, without any justification, in relation to the others. The last protected dimension is expressed in the correction of inequalities de facto derived from different situations. With a view to promoting equality, the CRCV gives special protection to the legitimate rights and interests of women, children, youth, persons with disabilities, elderly, and the most disadvantaged persons, with a view to progressively removing obstacles of an economic, social, cultural and political nature, which prevent the real equality of opportunity between citizens. Therefore, positive discrimination is allowed by law and has also been expressed in several measures as a way to guarantee full material equality.

15. The principle of non-discrimination is safeguarded. The CRCV establishes as grounds for discriminatory treatment those based on race, sex, descent, language, origin, religion, social and economic conditions, or political or ideological beliefs. This list has been interpreted as not exhaustive, so that other grounds not mentioned, can be invoked by virtue of other constitutional norms, such as colour, political or other opinion, national or social origin, fortune, birth, as indicated in the Universal Declaration of Human Rights, which under the CRCV, integrates the Cabo Verdean norms of fundamental rights. Other forms of discrimination provided for in human rights treaties, such as the ICCPR, or another of which Cabo Verde is a party, can also be invoked.

16. When examining the provision on the right to non-discrimination, the Cabo Verdean Constitutional Court expressed its raison d'être noting that the categories indicated are grounds for "situations in which persons for the reasons invoked are submitted to the will of the majority — rationalized in the form of a law — which, in order to diminish or insensitive to so much, keeps them in the place reserved for them, in the underground of law. It is these people who, desperate for their hetero-imposed condition, can resort to the constitutional principle of equality to question their treatment and obtain the deserved and respective integrative judicial protection. It is for the helots, for the *infra classen*, for the servants of the field, for the "sans-cullote", for the "outsiders", for the lumpen, for those who do not have "clean blood", for those who have a different epidermal colouration, for the "indigenous", for those who worship different deities or 'mistakenly' such idolaters, blasphemers, heretics, and apostates, to those who arbitrarily understand that they should not have been born, to those who are considered by others as 3/5 human or inhuman, of past and present worlds, that the principle of equality has been primarily created. It is in these cases that there is discrimination." (Judgement 7/2016, Rapporteur JC J. Pina Delgado).

17. The right to non-discrimination deserves protection at the criminal level, being the most serious forms of its violation punishable by imprisonment for up to two years or a fine of 100 to 300 days. Generalized practices of socially degrading discrimination that diminish or impair certain people or groups of people based on race, colour, sex, origin, sexual orientation, among other factors, are not identified in the effective enjoyment of civil and political rights provided for in the Covenant. Of the complaints addressed to the human rights institutions and to the Public Prosecution Service (PPS) in Praia, only one case in

2011 was identified, in which the violation of the right to non-discrimination was invoked based on article 161(1), (b) of the PC.

18. Aliens in Cabo Verde are holders of the fundamental rights, freedoms and guarantees, except for political rights and the rights reserved to nationals by law. A survey conducted in 2014 indicated that most immigrants did not face discrimination situations in institutions and did not report difficulties in accessing public or private services (79%).Some activities have been implemented to tackle the situation of vulnerability of immigrants, which is a relatively recent phenomenon in the country: surveillance and monitoring mechanisms with the provision of the "Immigrant Green Line"; the creation of a virtual page in Portuguese, English and French with indications of relevant institutions and access to public services such as health, education, social security, labour market, regularization of residence permit, associations of immigrants in the country and other information; in relation to access to justice and labour rights, the need to reinforce the quantity and quality of specialized human resources to intervene on the issue have already been identified, and guidelines have been drawn up for joint intervention with public institutions.

19. The right to equal protection of rights is guaranteed through the right to access to justice. This right is widely disseminated in legislation concerning the main areas of social life (Civil Code (CC), Penal Code (PC), Labour Code, Civil Registration Code (CRC)), among others, and the respective means of protection disciplined by the Civil Procedure Code (CCP), the Criminal Procedure Code (CCP) and sparse legislations on complaint procedures before administrative authorities. The system of protection of rights is further strengthened by the existence of the Extra Contractual Civil Liability Law of the State and Other Collective Persons of Public Law in the Exercise of Public Management Activity.

20. To ensure the protection of the rights provided for in this article, there are the judicial courts (Trial Courts, Courts of Appeal, established in 2016, and the Supreme Court of Justice (SCJ)) and specialized courts based on the matter, the Constitutional Court, installed in 2015, and the Military Court. The following administrative entities act in the protection of the right to equality and non-discrimination, as well as other rights provided for in the Covenant, such as: the Regulatory Authority for Media, the National Commission for Data Protection (CNPD), the National Electoral Commission (CNE), the General Labour Inspectorate, the Cabo Verdean Institute for Children and Adolescents (ICCA), the Cabo Verdean Institute for Gender Equality and Equity (ICIEG), the Ministries (especially the Ministry of Family and Social Inclusion and the Ministry of Justice and Labour); the CNDHC, the Ombudsperson's Office and the Special Committee on Legal Affairs, Human Rights and Media of the National Assembly.

21. In case of violations or threats of violation of the rights provided for in the ICCPR, some protection mechanisms of the right are made available to their holders. The judicial means of protection include: concrete review of constitutionality; Appeal of Fundamental rights; habeas data; habeas corpus; action to restore children's rights; and judicial review. Among the non-judicial mechanisms are: right to petition; complaint to the Ombudsperson; complaint to the CNDHC; gracious appeals of the Public Administration; and complaints to other administrative entities.

22. During the preparation of this report, although it is relatively difficult to ascertain all situations, it is noted cases of invocation of the rights provided by the ICCPR before the courts by lawyers, including in pending cases. The Constitutional Court, e.g., at the Case of Substantial Abstract Supervision of Constitutionality (Judgement 7/2016,Rapporteur JC J. Pina Delgado), referring to the CRCV, the ICCPR and other relevant instruments, specified the content of the right to equality and non-discrimination, establishing important parameters for its application, such as, the intrinsic relation of this right to the principle of dignity of the human person; and the need to prevent trivialization of the invocation of the principle of non-discrimination by establishing the difference between "differential treatment" and "discriminatory treatment", in the latter case referring to the categories indicated in the Constitution, the Universal Declaration of Human Rights and in the ICCPR, as highly suspect categories for the configuration of discriminatory treatment.

23. To increase the level of awareness of the Covenant, since 2006 the CNDHC has been working on it dissemination through publication release, which is easily accessible and distributed to the entire legal community, academia and civil society, in addition to promoting training for prison officers, journalists, CNDHC focal points in all municipalities, Members of Parliament, and students.

Article 3

24. All rights provided for in the ICCPR are equally recognized for men and women. The role of women in the society is valued, as they participated in relevant historical moments as in the struggle for national independence and, in the private sphere, many of the family responsibilities, namely in single parent ones (that is about 42% of families) the majority lies on the responsibility of women. Since independence, the country has been endowed with legislation prohibiting discrimination against women and public entities, which are given the specific task of formulating appropriate measures to promote their rights.

25. In this respect the following programs were adopted and implemented: National Action Plan for the Advancement of Women (1996–2000); National Plan for Gender Equality and Equity (2005–2011); Program of Action for the Promotion of Gender Equality (2011–2013), and Third National Plan of Gender Equality (2015–2018). These documents address the problem of men and women at all levels in a cross-cutting perspective, seeking to involve all public and private partners.

26. Concerning the political participation, the presence of women has always been smaller compared to men. The Electoral Code (EC), since 1999, has adopted incentive mechanism to encourage female participation in political parties. The ICIEG and the "Network of Cabo Verdean Women Parliamentarians" have been encouraging greater female intervention (see table 1 in the annex).

27. The current government is composed of three women and eight men. Until early 2016, before the elections that gave rise to the formation of this new government, the cabinet was gender balanced, being composed of eight women and nine men. Although the current number of Ministers in Government has been reduced, it should be noted that, at least in this sphere, the choices for these high executive positions have been guided by gender-blind type parameters. Women have also staged disputes for the highest office of the executive power on equal terms with men, leaving the choice to the discretion of the democratic game. It must be emphasized that many of the choices in this area have been based on criteria of political or partisan identification and not on gender.

28. In the municipal elections, there is an increase in the participation of women (see tables 2 and 3 in the annex).

29. In the Public Administration, 48% out of a total of 18,327 persons employed in the sector are women. Of the number of middle managers, 20% are women and 80% are men, and on senior managers 34% are women and 66% are men. In the private sector, the vast majority of companies (65%) are run by men versus 35% by women. In the labour field, legislation is based on the principle of equality between men and women.

30. Gender-based violence (VBG) is a priority issue. Understood as a serious violation of human rights, in particular by placing women in a position of subordination and inferiority vis-à-vis men, it has required the adoption of preventive, punitive and sensitizing measures to combat the problem. To deal with this situation, the 1st 2008–2011 National Plan for Combating GBV (PNCVBG) and the 2nd 2012–2016 PNCVBG (not published in the National Gazette) were prepared. In 2011, the first specific legislation criminalizing gender-based violence (LVBG) was adopted and regulated by Decree-Law 8/2015 (RVBG) and, in the same year, the GBV Crime Victim Support Fund was established. The LVBG has provided that the crime of sexual assault is also applied in cases involving spouses, ex-spouses or persons with whom they are or have been de facto united or linked by affective relationship, with or without cohabitation (see table 4 in the annex).

31. Other relevant measures are envisaged, such as crimes involving the prostitution of minors, solicitation of minors for sexual intercourse abroad, crime of living on a prostitute's earnings, exploitation of minors for pornographic purposes with aggravating circumstances.

32. To ensure that acts of violence are effectively investigated and that those responsible are punished, the LVBG has defined the crime as being of a public nature. Since the entry into force of the LVBG, the following number of cases was filed (see table 5 in the annex).

33. During the drafting of this report, no traditional practices and customs have been identified that flagrantly affect the personal integrity of women and girls, with the exception of the above-described domestic violence.

34. Regarding the presence of girls in the education system, the last Education Yearbook (2014/2015) shows that school attendance is practically parity, with 49.3% of girls attending preschool, 48% in primary school, and in secondary education the number is reversed in favour of girls, with 52.2%.

Article 4

35. The Constitution and the Law of the State of Siege and Emergency (LESE) govern the terms under which the suspension of rights may occur. Such situations are accepted only on an exceptional and temporary basis and must be officially declared. The "state of siege" can be configured in the case of actual or imminent aggression of the national territory by foreign forces or serious threat or disruption of the constitutional order and, the "state of emergency", in case of public calamity or disturbance of the constitutional order whose severity does not justify the declaration of the state of siege. In both cases, the law requires observance of the principle of proportionality. The declaration must be duly substantiated and indicate its territorial scope, the extent of its effects and its duration.

36. In no case should a declaration of a state of siege/emergency affect the right to life, physical integrity, personal identity, civil capacity and citizenship, the non-retroactivity of the criminal law, the right of defence of the accused and freedom of conscience and religion. The law that regulates the subject has extended the list of rights not affected by the suspension, determining that the meetings of the statutory bodies of political parties, trade unions and professional associations may in no case be prohibited, dissolved or subjected to authorization. Moreover, any rights may not be derogated in the circumstances provided for in article 4 of the Covenant, by virtue of human rights and international humanitarian law obligations adopted under treaties or under peremptory norms of international law binding Cabo Verde.

37. The suspension of the exercise of rights may not violate the principle of equality and non-discrimination, and in the case of limitation of the right to freedom by residence establishment or detention of persons on grounds of breach of security norms shall be made through judicial intervention and shall be guaranteed the right to habeas corpus; in case of limitation of the right to privacy for the possibility of conducting the house searches and evidence gathering, it must also be operated by means of judicial intervention; in the case of limitation of the right to travel by conditioning or prohibiting the transit of persons, the authorities shall in particular ensure the transportation, accommodation and maintenance of the affected citizens; in the case of restrictions on freedom of expression, by means of suspension of any type of publications, radio and television broadcasts, and cinematographic or theatrical performances, such measures may not include any form of prior censorship.

38. The constitutional procedure envisaged for declaration of the state of siege/emergency requires the collaboration of all sovereign organs of the State. The Government has to prepare the draft declaration of state of siege/emergency to be submitted to the President of the Republic, who declares it, after hearing the Government and after being authorized by the NA. The declaration of a state of siege/emergency cannot affect the rights and immunities generally recognized to the respective holders of sovereign bodies, nor can it alter the principles of the responsibility of the State and its agents recognized in the Constitution. Even under the state of siege/emergency, the law imposes that the right of

access to the courts remains in full effect for the purposes of defending the rights, freedoms and guarantees of those harmed or threatened with harm by any unconstitutional or illegal measures. LESE does not allow that article 4 can be used as a justification for excluding the State's responsibility for violations of such rights.

39. During the state of siege/emergency, the competent bodies of the military authorities shall remain in permanent session, as well as the Office of the Attorney General, with a view to ensuring the full exercise of their powers to defend democratic legality and rights of citizens. The law also requires that the authorities act in order to take the necessary and appropriate measures for the prompt restoration of normality. The validity of the state of siege/emergency has a time limit set in up to fifteen days, at the end of which, it must cease. The renewal, modification and revocation of the declaration of the state of siege/emergency follow the same procedure as the initial declaration. During the period covered by this report, there were no situations of declaration of the state of siege/emergency in the country.

40. Taking into account the challenges posed by terrorism, the legal system has gradually been equipped with the necessary instruments to deal with this scourge, but which do not compromise the protection of the constitutionally recognized rights. Cabo Verde has been bound to important international instruments related to this matter under which the internal regulation is prepared. The Anti-Terrorism Act regulates the fight against terrorism and the "Financial Intelligence Unit Act" prescribes the entity responsible for receiving, analysing and disseminating information regarding the suspicion of money-laundering and terrorist financing. These laws have ensured that the measures adopted are in compliance with the rights enshrined in the ICCPR and "terrorist act" is duly defined by the law.

41. Certain limitations related to the exercise of rights of an economic nature, some dimensions of freedom of expression and the right to privacy are permitted, such as temporarily prohibiting the transfer, alienation or movement of funds or other economic assets; the complete or partial interruption of economic relations, maritime, air, postal, telegraphic, radio-electric or other types of communication; and the establishment and dissemination of a list of persons and entities suspected of involvement in terrorist activities or the financing of groups, associations, organizations or terrorist acts or financing of the proliferation of weapons of mass destruction, in cases where the law establishes procedures and means for challenging or removing the information contained in those lists. There are no derogation provisions of basic rights such as the right to life, personal integrity and other dimensions of freedom.

42. Concerning the criminal investigation, situations that require special investigative mechanisms (telephone interception, telegraphic or other forms of communication, as well as telephone tapping and recordings of conversation) should follow the parameters defined in the law and be considered on a case-by-case basis and in a manner appropriate to the purposes of criminal prevention and repression identified in concrete. In any of these situations, the Public Prosecution Services in charge of the coordination and supervision of the criminal police's acts.

43. When complying with the Security Council's sanctions regime, Cabo Verdean legislation tasks the Attorney General or Public Prosecutor appointed by him, in the process of designating persons or entities related to terrorism, to analyse and deliberate on the adoption of the International Sanctions Lists, drawn up and maintained by the United Nations Sanctions Committees or other International Organizations, through the national designation of States, persons, groups or entities, previously designated by those organizations, and their inclusion in the National List, as well as to promote the processes of revision and updating of such lists. The law also provides for the possibility of formulating requests for exemption to Cabo Verdean authorities even from a person or entity designated in accordance with international acts, including United Nations Resolutions, in which case the conditions referred to in international acts must be taken into consideration by national authorities.

Article 5

44. Cabo Verdean law provides that rights, freedoms and guarantees may only be restricted in cases expressly provided for in the Constitution, which has adopted a favourable perspective for the greater protection of rights, freedoms and guarantees, as it gives clear indications in order to be interpreted always to the maximum extent. It is consistent with article 5 of the ICCPR by removing interpretations tending to restrict, suspend or even deny the rights provided for therein. In Cabo Verde, no doctrine or jurisprudence has ever interpreted any provision of the Covenant that would imply the derogation, restriction or suspension of rights and freedoms recognized therein.

Article 6

45. The right to life is widely protected in the legal system, with a central position and no derogations. In addition to a number of human rights treaties and international humanitarian law, Cabo Verde also strengthens the protection of this right by binding to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons, the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction and its implementation of the obligations arising from such a convention, the Treaty on Arms Trade whose object is to inter alia, contribute to international and regional peace, security and stability, reduce human suffering, promote cooperation, transparency and accountability of States Parties in the international trade in conventional arms, thereby fostering trust between them and to the Treaty establishing the Nuclear Weapons-Free Zone in Africa.

46. Cabo Verde prohibits the death penalty, as well as the application of a custodial sentence or a security measure perpetual or of unlimited or indefinite duration. The maximum sentence is 30 years of imprisonment for cases of aggravated homicide. The maximum duration of a custodial sentence is 35 years, which may occur in case of accumulation of crimes.

47. The PC under the heading "crimes against the international community" provides for crimes of genocide, incitement to genocide, crimes against humanity, war crimes against persons, war crimes using forbidden methods or means of war. Punishments of such crimes range from prison sentences of five to fifteen years, or from fifteen to thirty years, depending on the severity of the act. The PC establishes under "Crimes against the person", crimes against life, against physical and mental integrity, sexual liberty, etc. Homicide is punished with a penalty of ten to sixteen years, which may be aggravated for fifteen to thirty years, in cases where it is perpetrated by more serious means or motives according to the circumstance or condition of vulnerability of the victim. Homicide committed by the request of the victim and by negligent conduct and instigation or suicide aid are also punished (see table 6 in the annex).

48. Forced abortion is punishable by legislation, which indicates situations in which voluntary termination of pregnancy is not penalized, in particular, when practiced during the first twelve weeks of gestation with the consent of the pregnant woman and due medical care; at any time during pregnancy, when it constitutes a serious risk and danger to the mother; or for eugenic reasons, the latter two cases also require adequate medical care.

49. In cases of deprivation of the right to life, legislation also ensures both criminal and civil liabilities imposed for damages caused. In cases of homicide, whether committed voluntarily or not, a civil claim for compensation may be filed by the interested party, or the judge may officiously arbitrate the amount of compensation. In cases involving State agents in the exercise of their functions, compensation is also provided to the victims by the State.

50. The State gradually worked to strengthen the justice and police bodies through the provision of material resources, training and new recruitment. There are also guidelines on the implementation of the criminal policy providing instructions to the organs responsible for maintaining peace and public order that crimes against life should be considered as of priority prevention and investigation.

51. The country adopted a law regulating the application of measures to protect witnesses in criminal proceedings when their life, physical or mental integrity, freedom or assets of considerable value are at risk because of their contribution to proving the facts of the case.

52. During the reporting period, there were no cases including features and characteristics of possible extra-judicial killings. The cases of forced disappearance of individuals are also very sporadic. In a court data collection, at least one case ("*Nelson from the African Bar* Case") was identified (2005/2006). The Judicial Police has to carry out investigation actions and activities on complaints of missing persons. In these circumstances, the law authorizes the use of special criminal investigation mechanisms, provided that they are found under the law, and that they also require a case-by-case weighting in a way that is appropriate for the purposes of criminal prevention and repression identified in particular. The law describes the frameworks in which the police authority may use under-covered actions and recordings of images and audio in public places.

53. The regulation of the use of force and firearms by the police authority and security forces is provided in several laws. The legal framework takes due account of the ethical aspects associated with the use of coercive means and of weapons, keeping gun use situations under regular surveillance. The police authority engagement must be strictly guided by the principles of legality, necessity, adequacy and proportionality. They must observe the rights, freedoms and guarantees of the citizens, which includes and applies to the situations of exercising the right of manifestation and peaceful assembly. The law provides for the possibility of punishment and disciplinary liability in case of non-compliance.

54. The law indicates the situations in which public authorities are allowed to use weapon, notably, for own self-defence or self-defence of others; to effect or maintain detention or to prevent the flight of an individual suspected of having committed a serious crime; to conduct the arrest of an individual who has been evaded or who is the subject of an order or warrant for the commission of a crime; to free hostages; to prevent a serious and imminent attack on facilities of public or social utility, the destruction of which causes material injury, to defend a service station or facility under its custody; by order of their superiors. The use of a firearm by a police officer obliges him/her to report its use as shortly as possible and, if he/she has caused injury to any person, he/she has the duty to provide assistance.

55. Under the supervision of the National Police (NP) is the National Training Centre that coordinates, evaluates and selects the new recruits with the observance of the moral, psychological and physical qualities appropriate to the NP staff. Information gathered from the CNDHC (since 2004) and the Ombudsperson's Office (since 2014) indicate that there are cases brought to the attention of such entities of excessive use of force by the police authority, although in no case resulting in loss of human life. To respond to situations that come to the knowledge of the police authorities of abuses of authority, excessive use of force or improper use of firearms, the NP has promoted investigation procedures, disciplinary procedures or referral to the PPS.

56. The birth rate in Cabo Verde, according to data available from the last IDSR, is 2.9 children per woman (2005 data) and the maternal mortality rate is 37.9. To assist women in family planning, the State guarantees access to contraceptive methods and disseminates them through family planning programs and health services (see table 7 in the annex).

57. Situations where the law admits abortion, it can only take place in hospitals with technical capacity to do so in order to ensure the appropriate medical care for women. The last Health Statistical Report of 2013 did not report cases of maternal deaths due to abortion, however, the National Reproductive Health Program (2008–2012) recognizes that there is no reliable data on clandestine abortion, and that the issue deserves attention as it endangers the health of women.

58. During the reporting period, there were no cases of female infanticide or the so-called honour killing.

Article 7

59. Torture, cruel, degrading or inhuman treatment or punishment are prohibited. This right is strengthened by the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and by the Law providing for monetary and medical assistance to victims of torture and political repression, as well as to their legitimate heirs. To prevent torture or cruel, degrading or inhuman treatment from occurring, the PC prohibits such conduct in a quite broad way. With regard to the perpetrator who practices the act, it makes it possible to reach people officially linked to the public service or not; in regard to concrete acts, it contemplates both practices that physically or psychologically offend the victim; as to motivations, it may or may not be associated with a specific reason, being acceptable the simple will expressed by the criminal in intimidating the victim. Aggravating circumstances may also be imposed depending on the extent of the damage caused or the vulnerability of the victim, and also the responsibility of the superior in command is foreseen to authorize or consent the practice.

60. The punishment applicable to the practice of torture or other cruel, degrading and inhuman treatment and punishment is the deprivation of liberty which may be: from two to six years, if a more severe penalty does not fit under another legal provision; from five to twelve years, if there is an aggravating circumstance; from eight to fifteen years, if it results in serious and incurable illness, suicide or death of the victim or imprisonment from one to four years if the superior in command, having learned of the practices described, does not file a complaint within a maximum period of five days. Cabo Verde also does not allow custodial sentences or a security measure perpetual or of unlimited or indefinite duration. It is a cornerstone of the penal system that the measure of punishment cannot exceed that of the guilt of the perpetrator.

61. Data collected from the Police, the CNDHC, and the Ombudsperson's Office do not report records of crime of torture. In a data gathering conducted in the courts, it was possible to identify at least five situations in which torture or other cruel treatment was invoked, of which 2 are pending; and 3 cases involving police officers and prison security officers.

62. The evidence obtained through processes and techniques suitable to neutralize, restrict or condition their freedom of self-determination, to disturb or alter their memory capacity or the assessment of facts, or, in general, through an offence to the person's physical or moral integrity is null and void, even with the expressed or presumed consent of the person. The PPC prohibits the use and admissibility in judicial proceedings of statements or confessions obtained by any means of torture, physical or moral coercion, mistreatment, corporal offences, production of crepuscular states, administration of means of any nature, use of lie detectors, narco-analysis, hypnosis or the use of any cruel or deceptive means. If any of these situations occur, the court may declare a prohibition of its officious use. During the preparation of this Report there was no recourse to acts of torture or similar for the purpose of obtaining procedural evidence.

63. To ensure that arrested or detained persons are not subjected to torture or ill-treatment, one of the mechanisms in place refers to the inspection or oversight visits by the PPS to prison facilities under its jurisdiction, which in practice has occurred with some frequency in some counties of the country, more than in others. The CNDHC has made periodic visits to some prison facilities in order to assess the conditions to which the persons deprived of their liberty are placed (as occurred in the Praia Central Prison (2005, 2007, 2012, 2014 and 2016), to the Military Prison (2013, 2014, 2016); to the Socio-Educational Centre Orlando Pantera (2013 and 2017), to the Prisons and Police Stations of São Vicente, Santo Antão and Sal (2013 and 2014).This was accompanied by training activities for prison officers (2008 and 2009, 2013 and 2014).

64. Procedures for filing complaints of torture or ill-treatment against the police, security forces or prison officers are available and follow the procedures defined by the criminal procedural law. In the case of a public crime, the PPS is responsible for receiving the complaints and carrying out the criminal proceeding. Under the administration of the

police forces, most of the complaints about the actions of its agents directed to the NP are related to the excessive use of force (see table 8 in the annex).

65. Regarding cases of police aggression, it was verified with the non-judicial entities, that both the CNDHC (in which, in 2015, 11% of cases of abuse of authority or police aggression were registered, in 2013, 18%; in 2012, 14% in 2011, 17% in 2010 and 20% in 2010), and the Ombudsperson (which in 2015 recorded 10.2% of cases directed against police officers) has received complaints suggesting excessive use of force by the police authority. With the judicial authorities, the information gathered from courts shows that there are no precise numbers of abuse in the use of force, which do not constitute torture, already analysed above, by the police since cases of personal aggression, or even homicide, do not make distinction between the police officer and any other ordinary citizens. At the preparation of this Report, 8 convicted police/prison officers were serving sentence in the country's largest prison: 4 for homicide committed off-duty (one them a prison officer); 1 for attempted homicide committed off-duty; 1 for the crime of passive corruption and 2 for drug trafficking.

66. In terms of civil liability, the law provides that citizens who have suffered acts of torture or political repression by public officials are entitled to free medical, medicine assistance and disability pension. If the victim is deceased as a result of acts of torture or political repression, his/her legitimate heirs may benefit from State support. Although this law still lacks regulation, during the reporting period, there is no record of serious situations of torture or political repression practiced by agents of the State, in which it was invoked the right referred to in that law.

67. Even if they do not take the form of torture prima face, but abuse of police authority, the victim may, through criminal proceedings or civil actions, be entitled to compensation from the State for unlawful acts to which he/she was subject to specific Law. Information gathered from the court located in the country's capital, since 2000, showed no records of civil actions, which the State's responsibility has been invoked for aggression committed by the agent of authority.

68. In 2012, the CNDHC, in partnership with the Social Reintegration Directorate, promoted the publication of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Training and awareness-raising activities in prisons facilities in 2008, 2009, 2013 and 2014, carried out by the CNDHC, addressed the issue. The punishment of torture was done under Law, of which the scope was narrower since it indicated that the perpetrator of the act should be an agent of the public service and would associate torture with the act of discrimination.

69. Regarding extradition, the CRCV assures that in no case will extradition be admitted when requested: for political, ethnic or religious reasons or for expression of an offence; for a crime to which the death penalty applies in the requesting State; where it is admittedly justified that extradited person may be subjected to torture, inhuman, degrading or cruel treatment. This rule applies to both nationals and foreigners. The extradition may only be ordered by judicial decision. The same protection is granted in the case of the transfer of convicted persons, pursuant to the Law that defines the general principles of international judicial cooperation in criminal matters, which safeguards such situations and on the basis of which the Convention on the Transfer of Sentenced Persons between the Member States of the Community of Portuguese Speaking Countries was concluded; the Agreement on the Transfer of Sentenced Persons between Cabo Verde and the Kingdom of Spain and the Agreement on Legal and Judicial Cooperation in Civil and Criminal Matters between Cabo Verde and Portugal.

70. During the reporting period, the following requests were analysed and granted (see table 9 in the annex).

71. In relation to children in schools, the law provides that disciplinary regulations in place in the educational establishments have a primarily pedagogical function and the application of physical or humiliating sanctions against children or adolescents is expressly prohibited. Cases of physical punishment at school are not common and, if they do occur, legal action is taken to hold them accountable. In this particular case of children, especially, the respect for their right to personal integrity in any sphere of their life, Cabo Verde has

adopted legislative measures and launched awareness-raising and prevention campaigns. ICCA has made disclosures and makes available to the population the means to file complaints, as well as maintains children's emergency centres.

72. Concerning practices that affect the dignity and personal integrity of women and girls, such as genital mutilation, there is no record in Cabo Verde. Scientific research is stimulated; however, there is no record of practices relating to experiment with human beings.

73. For the purposes of criminal law, subjection to torture or cruel, degrading or inhuman treatment, including biological experiments is punishable as a war crime against persons and the submission of persons who are under the control of a belligerent party to physical mutilation or any type of medical or scientific experiment not motivated by medical, dental or hospital treatment, nor are they carried out in the interest of such persons, and which cause death or seriously jeopardize their health. The penalty provided for is imprisonment from fifteen to thirty years.

Article 8

74. Slavery, servitude or forced labour are prohibited. To prevent and combat such acts, including modern forms of slavery and trafficking, criminal legislation has given more detail to the conduct related to this right, providing for the following types of offences: slavery; sexual slavery as a crime of genocide; slavery as a crime against humanity; slavery as a crime against persons protected in the event of armed conflict; trafficking in persons; and forced disappearance. Other forms of servitude are also prohibited (prohibition of forced labour; of forced domestic labour and forced marriage).

75. Cabo Verde is aware of the constant alerts included in reports from the police and the Human Rights Committee itself that the region may be used as a transit point for trafficking in persons from West Africa to the Canary Islands and Europe, so that the issue has received priority treatment. The "National Immigration Strategy" (2012) was approved, which seeks to identify and outline specific guidelines on combating trafficking in human beings and protecting its victims.

76. Although the normative set applicable to the country was strengthened by its bidding in 2004 to the United Nations Convention against Transnational Organized Crime and its Protocols for the Prevention, Suppression and Punishment of Trafficking in Persons, Especially Women and Children, and against the Smuggling of Migrants by Land, Sea and Air identified the need to adopt a specific legislative measure against trafficking that clearly establishes criminal definitions and their respective punishments. Although this action is still pending, in 2014 the "Foreigner's Law" was amended, which detailed the procedures to be followed in case of entry and stay of foreign children in the Cabo Verdean territory when unaccompanied by the person with parental authority or failing to show the required written authorization. It represented a breakthrough in relation to the Foreigner's Law of 1997, which simply refused to admit children under 16 years of age under the same circumstances, without explicitly safeguarding their interests.

77. The movement of Cabo Verdean children in national territory or the departure abroad has been object of inspection by the State, especially the Directorate of Foreigners and Borders, which has the duty to protect them from illicit and unauthorized movement. Particularly in a country like Cabo Verde with a fragmented land area of 4,033 km^2 and a sea that extends for 780,000 km^2, is undoubtedly a huge task in terms of mobilization of resources for the surveillance, efficient maintenance of monitoring and control of national borders. In view of these challenges, some specific measures have been identified in the National Immigration Strategy for implementation purposes: develop and support an action plan to prevent, combat and protect victims from trafficking; to establish a system for collecting data on trafficking in persons and smuggling of migrants; increase the capacity of national authorities to detect and punish criminals; increase the capacity of the judicial system to act against traffickers and smugglers; develop a national resource system to enable the various stakeholders to provide immediate and appropriate assistance and services to victims of trafficking; establish partnerships with NGOs and other civil society

organizations in order to find various forms of assistance to victims of trafficking. Other relevant measures that have been undertaken, including the support of international partners, such as the improvement of infrastructure and security against false and adulterated documents — which is a regular practice. The integration of biometric data into national passports and travel documents is in progress to improve document security and prevent forgery, as well as continuous training of border officers in order to deepen the skills for the recognition of false and adulterated documents.

78. From the information gathered from all the court districts of the country, it was possible to identify two cases decided on the subject. The first occurred on the island of Sal (2005), in which the accused, a foreigner, was tried and convicted for the crime of human trafficking. The second involved foreign women and prostitution, tried on the island of Boa Vista in which the court of first instance convicted the person(s) responsible for slave labour. This case is still pending before the SCJ.

79. Criminal law provides for the possibility of the convicted person doing work on behalf of the community. This situation does not constitute forced labour, since its system is anchored in the following elements: it is a measure for the purpose of serving a sentence, used as a substitute for imprisonment and fine; it should be determined by a court having jurisdiction to that effect; and applicable whenever the perpetrator has been sentenced to imprisonment for up to three years or a fine of up to 200 days. The use of this measure has been extended since 2015, and, as expressed in the PC, the work cannot constitute a task that undermines the dignity of the convicted person and must comply with the intended purpose of the best and easier integration of the prisoner into the community.

80. Outside the scope of "work in favour of the community" characterized as an alternative punitive measure possible to be used, the Law on the Execution of Custodial Measures (LEMPL) also provides for the possibility of the prisoner performing work inside or outside the prison facility. These activities, as well as those of vocational training, are voluntary and stimulated with the inmates, and in some cases, they must be authorized when executed outside the prison facility. The law establishes the rights of the inmate as to the work day, the prohibited tasks and activities and the possible remuneration. The activities of cleaning and maintenance of cells or other complementary ones are considered as duties of the inmate, not being classified as forced labour.

81. The last Activity Report by the Directorate of Social Reintegration states that in the "Work in favour of the Community Program", between the years 2014/2015, there were 18 entities that received providers of work in favour of the community for labour purposes, 62.2% of which are public sector entities. Among the works carried out by the offenders are: carpentry, civil construction, project preparation, cleaning and maintenance, mechanics, monitoring, fishing, sanitation and security. In relation to the work performed by the prisoners, two regimes are foreseen: The Opened Internal Regime, granted by the prison's management, and the Opened External Regime, granted by the court, subject to the fulfilment of law requirements. The following works have been executed: civil construction, carpentry, blacksmithing, mechanics, horticulture, handicrafts, bakery and kitchen.

Article 9

82. The right to personal liberty and security is constitutionally safeguarded. Since freedom is a prerequisite for the realization of many other fundamental rights, only in cases strictly foreseen in the law can it be restricted. Deprivation of liberty cannot be arbitrary and must be duly provided for by law. The general principle is that no one may be totally or partially deprived of his/her liberty, except as a result of a judicial conviction for the practice of acts punishable by law with a prison sentence or judicial application of a security measure provided for by law.

83. The other hypotheses in which deprivation of liberty may be operated, always respecting the principle of legality, are: detention in the act; detention or pre-trial detention due to strong indications of the commission of an intentional crime punishable by imprisonment, with a maximum limit of more than three years, when other procedural precautionary measures prove insufficient or inappropriate; detention for failure to comply

with the conditions imposed on the defendant on a provisional release; detention to ensure compliance with a judicial decision or appearance before a judicial authority competent to practice or comply with a judicial act or decision; subjection of minor to socio-educational measures decreed by judicial decision; arrest, detention or other coercive measure subject to judicial control, of a person who has entered or remains irregularly in the national territory or against whom extradition or expulsion proceedings are under way; disciplinary arrest imposed on the military, with a guarantee of appeal to the competent court, once the hierarchical channels have been exhausted; detention of suspects, for identification purposes, in the cases and for the minimum time strictly necessary, fixed by law; inpatient service for persons with psychic anomaly in suitable facility, when his/her behaviour reveals dangerous and once decided and confirmed by competent judicial authority.

84. For the above-described situations where the restriction of liberty is authorized, the law shall set out in detail the general conditions under which a person may be detained or imprisoned and, on the other hand, special conditions for cases deserving special treatment such as psychic anomaly, military, immigrants and minors between 12 and 16 years old, who commit acts equivalent to crime. The requirements set forth in the law for each situation will be presented separately below. The law regulates the conditions for the deprivation of liberty by imposing on the public authority the due observance of the proportional severity of the crime, its necessity, its purpose and adequacy.

85. Restrictions imposed on the freedom of the person are only admitted in order not to frustrate the criminal prosecution, so that criminal procedural law treats such situations as "precautionary measures of the process". Such measures are closely related to the establishment of criminal responsibility, however, it should be noted that detention or pre-trial detention to obtain evidence is always illegal. The situations of restriction of freedom authorized and regulated by the law are the following: detention; detention in the act; detention to identify the suspect; and detention or pre-trial detention.

86. In any of the above cases, in order to safeguard against any arbitrary detention, Cabo Verde counts on: a legal framework that clearly disciplines the conditions and limits of the action of the public authority when it deprives a person of liberty; a police force trained and attached to compliance with the Constitution and the law; the supervision and regular intervention of the judicial authority in such situations; mechanisms of protection and guardianship available to citizens for the protection of their rights in situations where their right to freedom is at risk, as well as means of restoration.

87. With regard to the detention contours, the law establishes that it constitutes an act of deprivation of liberty for a period never exceeding forty-eight hours and must be in line with the following purposes: to submit the detainee to the trial in summary form or to ensure that he/she is present before the competent court for the first judicial interrogation or for the application of a personal cautionary measure; ensure the immediate presence of the detainee before the judicial authorities in a procedural act; ensure the notification of a conviction handed down, in exceptional cases provided for in the PC, on trial without the presence of the accused; to ensure the execution of a prison sentence or an institutionalization security measure.

88. During the period in which he/she is under police custody, the detainee or prisoner has the right: to know the facts that led to his/her arrest or detention; contact the lawyer; not to make statements, except in the cases and terms under the CCP; to identify those responsible for his/her arrest or detention and interrogation; and that immediate communication be made to his family or person indicated by him, indicating the precise place where he/she is located and a brief description of the reasons motivating it. All other rights that are inherent to them must be respected and the remedies to challenge any illegal detentions available and analysed expeditiously by the judicial authority. The police authority when detaining an individual must immediately inform him/her about the reasons for his/her arrest. As soon as the detainee arrives at the Police Station, after identification procedures, he/she is allowed to contact a lawyer, a member of his/her family, or, if necessary, a doctor.

89. Two other types of detention with specific contours are "arrest in the act" and "arrest for suspect identification". The first is admissible when the offence is punishable by a

prison sentence, although with alternative penalty of fine. In such cases, any judicial authority or police entity shall, and any person may, if one of these entities is not present and cannot be called in due time, proceed with the detention; while when done by any person it cannot exceed 2 hours before being handed over to the police authority, following the procedures of the summary procedure. The second, of a strictly police nature, is allowed only when the person, a merely suspect of practicing any wrongdoing, is not able or refuses to make his/her identification, and can never exceed the duration of three hours.

90. With regard to "detention or pre-trial detention", this situation is foreseen in the procedural law among the "personal cautionary measures", presented in a staggered form, encompassing from less burdensome forms such as the statement of identity and residence (TIR), periodic presentation to the authority, bail and others, to the most affecting form expressed as "pre-trial detention". The law establishes that any of these measures (with the exception of the TIR) is justified only if the following occurs, in the course of the proceedings: flight or danger of flight; present and actual danger for the acquisition, retention or preservation of proof that a specific and non-derogable requirement for ongoing investigations is shown; danger due to the nature and circumstances of the crime or personality of the accused, disturbance of public order and tranquillity, or continuation of criminal activity. The request for pre-trial detention is made by the PPS during the investigation phase, and after the investigation, it can be made on a case-by-case basis, after hearing the PPS.

91. Pre-trial detention should be an exceptional measure, the legislation makes it necessary to constantly monitor the assumptions that support it through the judicial power, which is obliged to revoke it whenever the precautionary requirements cease to exist or set up a mitigation case in a less burdensome way. Revocation or replacement of personal cautionary measures may be made on a case-by-case basis, upon request of the PPS or of the accused. No pre-trial detention may be imposed, except in cases of exceptional relevance, to: women who are pregnant or who are responsible for children under three years of age, or the father who is in charge child of that age, when the mother is deceased or, in any case, absolutely unable to assist him; persons who are over seventy years of age or whose state of health is incompatible with detention; drug or alcohol dependent persons who have a therapeutic recovery program in progress under an officially recognized institution, where discontinuation of therapy may jeopardize the detoxification of the accused.

92. Criminal procedural legislation has imposed strict measures and time limits to which police and judicial authorities should be attached. Although the rule is the practice of procedural acts on business days and office hours and outside the judicial leave period, in the case of a defendant detained or imprisoned, procedural acts may even be practiced outside working hours and also on Saturdays, Sundays, public holidays and granted work interruptions in order to guarantee their freedom.

93. The Law also stipulates that the period of detention pending proceedings may in no case exceed 36 months. The law provides for deadlines at each stage of criminal proceedings that cannot be exceeded resulting the immediate release of the detainee if they have not been met. If the release takes place because the periods of maximum duration of pre-trial detention have been exhausted, the judge may apply for another personal cautionary measure. The "Re-examination of pre-trial detention assumptions" is also provided.

94. To deal with situations of unreported detention and abuses of such practices, the law clearly determines, on a repressive basis, the obligations of the judicial and police authorities for their strict compliance, indicating as a consequence the possibility of civil, administrative and criminal liability. As a preventive measure, these obligations are duly emphasized in the training and selection process of the new officers. Control of the legality of all forms of deprivation of liberty must be carried out through a judicial authority, which to safeguard the principle of the presumption of innocence, must work on a shift basis (outside working hours) for the analysis of this particular topic. It is considered as unlawful, the imprisonment: carried out in a place not destined to do so; the one authorized by an incompetent person; motivated by a fact not admitted by law; or the one held beyond the period fixed by law or decision. The remedy available for cases of illegal detention and

detention is the habeas corpus. It may be invoked by a wide range of persons (prisoner himself/herself, the PPS or anyone else in the enjoyment of his/her political rights) and may be directed to any trial court or to the Chairperson of the SCJ. The maximum term for its decision is five days. Although it is not possible to specify the number of applications for habeas corpus filed in the trial courts, in relation to those filed before the SCJ (see table 10 in the annex).

95. The right to compensation for unlawful deprivation of liberty can take place when the detainee remains in this situation beyond the constitutional or legally established deadlines, or when he/she is detained pending trial for a crime that does not admit it, or for serious mistake. In such cases, the right of action must be used within one year from the moment the prisoner or detainee is released or has been definitively decided in criminal proceedings. In a data collection conducted in the court of the largest district of the country (Praia), between 2000 and 2016, seven civil actions were registered invoking the responsibility of the State for illegal detention or imprisonment, of which three have already been tried. Of these, in one case the judgement a quo sentenced the State to pay compensation, and in the other two the right was not recognized by lapse and lack of evidence. The remaining cases are still pending decision.

96. Situations of psychic anomaly and drug dependency may constitute a cause of none criminal responsibility to the commission of a crime; there is no provision for deprivation of liberty due to vagrancy and begging, situations that were eliminated from the PC in 2004 because they were not justified by the lack of legal interest to be protected; and custodial are not allowed for educational purposes.

97. In the case of the military, the law provides for the possibility of detention in situations of intentional crimes and the following conditions have to be met: a well-founded fear of flight of the suspect or defendant; danger of disrupting the investigation diligences; value of the suspect or defendant, depending on the nature and circumstances of the crime or the person's personality. The detainee should be unequivocally informed of the arrest warrant, the grounds for its arrest and the authority which ordered it, as well as the following rights: not answer questions about the facts that he/she is being accused of; be assisted by a lawyer chosen or nominated by the military judicial authority; communicate with the counsel in private; be present before the competent court within forty-eight hours, if, in the meantime, he/she has not been released. The detention may not be extended for more than forty-eight hours, during which time if the detainee is not released, he/she must be present before the presiding judge of the military court, accompanied by the respective proceedings, as it is.

98. In case the distance from the military court is incompatible with the urgency of the matter referred to in the previous paragraph, the presentation of the detainee shall be made to the judge of the district where the investigation is taking place, which will have subsidiary jurisdiction for this purpose. The competent judge must explain to the detainee the reasons for his/her detention, inform him/her rights and duties, to question him/her and to enable him/her to present a defence, uttering, at the end, a reasoned decision on the maintenance of the detention, either by validating it or by replacing it with another measure provided for by law, or by ordering the release of the detained, with or without conditions. The judicial decision validating the detention should be immediately communicated to detainees relative or trusted person, with a summary indication of the prison and, once the detention is validated, the prisoner compulsorily becomes a defendant, if not yet, and the investigation of the criminal proceeding should be initiated soon, if not started yet. To avoid extending the deprivation of liberty, the law also establishes deadlines that the military justice process cannot be exceeded in cases of pre-trial detention, which, once overcome, should lead to the release of the military personnel. Against the illegal arrest or detention by the military authorities or courts, it is permissible to request habeas corpus to the SCJ.

99. With regard to those with psychic anomalies, the law provides for "placement in a psychiatric institution" for situations involving a defendant subject to pre-trial detention who suffer from a psychic anomaly that does not exclude their ability to blame or significantly reduce such capacity, he/she may be subject to preventive hospitalization, rather than pre-trial detention, while the anomaly persists, in a psychiatric hospital or other

similar institution. Currently, the country does not have its own facility for this purpose; there is the Trindade Psychiatric Hospital that attends the general cases of people with psychic anomalies, whether or not they are associated with the practice of crime.

100. In cases of deprivation of liberty of minors between 12 and 16 years old for the commission of conduct similar to crime it is possible applying socio-educational measures, considering that it is not a punitive measure, but rather aims at the re-education of adolescents/youth. In the case of immigrants, the only situation of deprivation of liberty allowed by law is that of a person who has entered or remains illegally in the national territory or against whom the extradition or expulsion process is under way. These measures are subject to judicial control.

101. This country is endowed with Law on the reception of foreigners on humanitarian grounds reasons and in temporary reception centres. Such centres are not in place and there were no arrests of asylum seekers during the period of the report.

Article 10

102. The treatment of persons deprived of their liberty is regulated in the LEMPL and in the Regulation of the Central Prison of Praia (RCCP), applicable to other prisons in the country. Respect for human dignity and its corollaries are fundamental values of the criminal system, especially in the humane treatment of persons deprived of their liberty. Prisoners cannot be subjected to cruel, degrading or inhuman treatment or punishment. Even if deprived of his/her liberty, a person has the right not to be discriminated against on any basis. The prisoner's personality rights must be respected, and penalties and security measures cannot have as necessary effect the loss of civil, political or professional rights or deprive the convicted person of his/her fundamental rights, except the limitations inherent to the nature of conviction and to the specific requirements of its corresponding execution. The main objective of prison law is the reintegration of the offender into community life. Prison inmates enjoy all legal rights and interests not affected by the sentence or judicial judgement.

103. The country has 5 prisons, with two central prisons (in Praia and Mindelo) and three regional prisons (in Santo Antão, Fogo and Sal), as well as a Military Prison (see table 11 in the annex).

104. Regarding the prison facilities for military personnel, see table 12 in the annex.

105. The problem of overcrowding has been aggravating in recent years, particularly in the two central prisons of the country (Praia and São Vicente). The first one has capacity for 751 inmates but actually houses about 1,095 inmates and the second with capacity for 154 and houses 274. The Regional Prison of Sal (capacity for 175 and houses 87), Fogo (capacity for 50 and houses 46) and Santo Antão (capacity for 50 and shelters 41) work within the limits of their capabilities, as well as the Military Prison.

106. The country has a Prison Security Unit that is responsible for the supervision of prisons, particularly for ensuring security and order, and maintaining relationships with prisoners in terms of justice, firmness and humanity. The Statute establishing the Prison Security Unit was upgraded in 2011and the Unit's Disciplinary Statute came to light in 2014, reinforcing relevant aspects of the responsibility of such officers. The Prison Security Unit consists of about 160 officers, distributed by the five prisons, and the Central Prison of Praia, as the largest absorbs almost two-thirds of the total of these personnel. Considering the prisoners/prison security officer ratio Praia and their distribution by shifts, in some facilities the ratio is as high as 106 prisoners per prison officer.

107. The largest of them, "São Martinho Prison" (Praia) is composed of two prison units, each organized in sectors, wings and/or cells. The first unit is subdivided into the: Sector 1 (consisting of Wing A, with cells intended for pre-trial female detainees; Wing B, with cells for convicted female inmates; and cells intended, under the law, for female inmates under disciplinary regime); Sector 2 (with cells intended for pre-trial male detainees and prisoners convicted under a disciplinary regime, aged between 16 and 21 years); Sector 3 (with cells intended for convicted male prisoners aged between 16 and 21 years old; with cells

intended for inmates whose physical or mental state of health recommends special treatment care; with cells intended for inmates engaged in indoor and outdoor labour activity).

108. The second unit comprises 6 sectors divided into two wings, A and B, each consisting of numbered cells and intended for: (a) pre-trial detainees over 21 years of age; (b) convicted prisoners, over 21 years of age; (c) the separate reception of male and female inmates, who for reasons of security of the facility, their staff, other inmates and visitors to the prison, in accordance with the law, consider it advisable to isolate them in cells specifically adapted to their situation; (d) health sector that welcomes prisoners in medical treatment and those who suffer from mental disorders, upon indication of the doctor in charge.

109. So, even with overcrowding, it has been possible to ensure the separation between male and female prisoners, as well as between pre-trial and convicted inmates. There are no data on the number of prisoners suffering from mental disorders; the subject has already been discussed in the CNDHC and the measures to be adopted are still under analysis.

110. The Regulation in effect in the Central Prison of Praia is also applicable to other prisons in the country. The following level of compliance from the other prison facilities can be observed, according to the following criteria: regarding the separation of men and women, all facilities have been compliant, with the prisons of Santo Antão and Fogo housing only men; on the separation between juveniles and adults, the Prison of São Vicente is fully compliant, the Prison of Fogo and Sal are partially compliant, having only separated cells and the one of Santo Antão does not have conditions for its compliance; regarding the separation between pre-trial and convicted prisoners, it has been possible to ensure it in all prisons; as to the type of crime, it has been a relatively observed criterion and, as far as possible, it is as a rule that the regional prisons have housed those sentenced up to two years, being those with more severe penalty directed to the central prisons. With regard to the number of pre-trial inmates vis-à-vis the total prison population, see table 13 in the annex.

111. As for the differentiated treatment among juveniles (aged 16 to 21 years) and adults, the law imposes the application of a more favourable treatment during the period of their imprisonment. Prisoners of this age group cannot be subjected to a period of continuous isolation (which consists of the prisoner's stay in his/her cell, where he/she will take his/her meals and carry out the work assigned to him/her, according to his/her qualifications and capacity), except for disciplinary reasons. Regarding educational activities, the General Directorate of Prison and Social Reintegration Services (DGSPRS) has encouraged the participation of juvenile prisoners and is diligence so that the attribution of work activity be appropriate (see table 14 in the annex).

112. Taking into consideration the increasing prison population and limiting budgetary resources, Cabo Verde is aware of the challenges posed by prison management. To address this situation, some measures have gradually been adopted over the years. In the period from 1993 to 2009, the prisons were subject to regulatory regimes, sometimes emanating from merely circumstantial instructions issued by the General Directorate of Prison Services or adopted by the prison managements themselves. To correct the drawbacks arising from this solution — in particular, by hindering the ministerial supervision of such facilities, without mentioning the risk of a subjective and undesired application of the Law on the Execution of Custodial Measures — the regulation that disciplines the operation of prison facilities was approved in 2009. Such a guiding instrument has made it possible to better implement the Ministry of Justice's oversight over those responsible for the country's prison managements.

113. Given that in two decades (1997–2016) the prison population has almost tripled, the Regional Prison of Sal was built (2013), and the expansion and construction of the women's wing of Prison of Praia were conducted which has allowed to meet the criteria of separation of prisoners by sex, age, type of crime and nature of imprisonment in the country's !argest prison. To remedy specific problems associated with overcrowding, the Directors of the prisons (mainly Praia and São Vicente) maintain frequent contact with the DGSPRS, so that the material needs are reported as soon as possible so that possible

budgetary resources can be mobilized. This Department is also responsible for the supervision and social services provided to inmates, which includes psychosocial, educational and vocational training. The prison of Praia also has a Drug-Free Unit for the treatment and social reintegration of convicted drug dependent persons of both sexes, aged 16 and over, by means of medium-term hospitalization (six months), and, at the same time, intervene and support their families.

114. Prison services regularly provide prisoners, at their own expense, with the toiletries they need. For needy inmates such items are provided free of charge, without prejudice to their reimbursement when there is a change in that situation. Access to the medical or nursing and medicine services they require is guaranteed. Prisoners are free to profess their religious beliefs and have the right to receive visits from worship ministers, under the conditions defined in the prison's regulations. Prisoners are guaranteed access to vocational training and leisure activities. Subject to community safety conditions and when serious reasons recommend, the prisoner may engage in paid work outside the prison.

115. The inmate has the right, periodically and under surveillance, to communicate with his/her family and friends either by correspondence or by visits and has access to information. In case of visits, as long as the security and surveillance rules are safeguarded, they have the right to contact alone with their spouse or relative up to the second degree of the straight line, and they are entitled to visits from other relatives when there is an attendant interest. Each visit has a maximum duration of two hours, and cannot be granted more than twice a week. The visits of lawyers and solicitors are also authorized, alone, upon request, without prejudice to security measures. With regard to correspondence, it is also ensured only being restricted in cases where it jeopardizes the order and security of the prison facility. The inmate may be authorized at his/her own expense to make telephone calls and send telegrams. Due to disciplinary measures, visits may be prohibited in the situations provided for in the prison Regulations to be referred to below.

116. The law also provides for the possibility of inmate's short-time leave and temporary release, as well as the execution of labour-related activities outside the prison facility, under the conditions defined by law. Social reintegration services are responsible for developing social reintegration plans for convicted inmates in order to promote their reintegration into society, with a priority focus for those convicted of serious crimes and serving long sentences. Such plans have included access to education, vocational training, work and the attendance of programs and other measures resulting from the individual readjustment plan, including specific programs to control violent aggression, gender-based violence control, behavioural control against freedom and sexual self-determination, control of drug dependency and promotion of employability.

117. In the last year the following programs were implemented in the Central Prisons: Vocational Training Program (with courses in cooking, blacksmithing, hairdressing and beauty care, etc., benefiting 111 inmates); Free Time Occupancy Program and Labour Occupation Program (within the indoor regime, benefiting 131 inmates); Program for the Treatment and Social Reintegration of Drug Dependent Inmates (with the maintenance of the Drug-Free Unit and a psychosocial space, benefiting 65 inmates); and Program for the Monitoring and Follow-up of Prisoners in Labour Release (8 inmates) and Conditional Release (76 beneficiaries).

118. The disciplinary system in force in prisons is based on the principle of legality and disciplinary offences are staggered according to the level of severity. Isolation in special security cells is allowed whenever for reasons that reside in the person of the inmate himself/herself and when internal security measures prove to be inoperative or inadequate due to the severity or nature of the situation. The special security cell has the same characteristics of the other cells and the inmate is frequently visited by the doctor or nurse to verify the need to modify the applied measure.

119. In case of emergency, the law also provides for the possibility of applying preventive disciplinary measures. The disciplinary cells must meet the necessary conditions of habitability, being prohibited the use of dark cells and assuring clothing, bedding and normal hygiene care. In the Central Prison of Praia, the intimate visits between the inmate

and the recognizable partner or spouse of a de facto union, as long as there are conditions, may be authorized by the Director. Currently, they are not taking place.

120. Legislation provides the channels through which inmates can address their complaints and the access to information regarding such mechanisms has been guaranteed through the Prisons' Management, lawyers, the families and of the actions from the CNDHC. The rules on the treatment of persons deprived of liberty are part of the training of prison officers, including with a focus on treaties relating to the matter. Information collected from all prison facilities in the country for the purpose of preparing this report shows that there have been three complaints that have been referred to the PPS of inmates against prison officers.

121. Prison facilities are subject to regular inspection by the competent services under the DGSPRS. The PPS also acts as a supervisory body and must visit, the prisons in the area of its jurisdiction, at least on monthly basis. Visits by the PPS and the CNDHC to prison facilities have taken place regularly. Complaint mechanisms have generally been secured by the prison managements through the widespread dissemination of the Regulation that governs the functioning of the prison facility. Complaints, even against the action of prison officers, have been addressed to the Prison Directors who refer them to the Public Prosecutor's Office, when applicable.

122. There are no nursing homes in which the elderly would remain for a long period. There are "Day Care Centres" and some NGOs, such as the Red Cross, which has been dedicated to developing activities involving the older population.

Article 11

123. There are no cases of imprisonment for breach of contractual obligations. There is no provision in legislation for imprisonment that may be made for non-compliance with a contractual obligation, much less that indicates the possibility of deprivation of liberty by judicial order regarding non-compliance with a contractual obligation.

Article 12

124. The Constitution recognizes the right to movement and emigration. Citizens and resident or non-resident foreigners have the right to freely move within the national territory and choose their place of residence. The entry of nationals in the country, as well as their exit, are free and that of foreigners obey the conditions for entry established in the applicable legislation, being able to freely leave the country. This right is exercised without discrimination of any kind. Unlawful limitations to the fundamental freedom may be safeguarded through judicial, administrative and other means. There is no legal obligation that require registration of persons or other formalities or conditions for your residence in a particular area. Except for the right to private property, the other areas that constitute the public domain of the State are all accessible.

125. As a historically emigration country and, more recently of immigration, there are no legal restrictions and practices on the right to leave the country applied to nationals or foreigners. The right to movement and emigration can only be restricted by judicial means, and always on a temporary basis. This is the case of a number of "personal coercion measures" provided for under criminal procedural law, with a view to ensuring criminal prosecution in accordance with the principle of proportionality. For person's own security reasons, limitations can be established regarding access and movement of persons in the event of a declaration of a calamity situation, which is also subject to the principle of proportionality, priority, precaution and prevention.

126. The issuance of the travel document, namely the regular passport, is obtained upon request and must include all the identification elements that appear on the Identity Card or another that legally replaces it. There are no other conditions imposed for the withdrawal of the passport nor does it require an exit visa. Very sporadically, there have already been situations of shortage in the stock of passport documents, which implied some delay in their

issuance and the situation was restored. At internal and external level, the border police authorities and the services of the embassies and consulates, respectively, have guaranteed the access of the nationals to their respective travel documents.

127. The right to travel, to choose the domicile, as well as the right to leave the country, are recognized to nationals and resident foreigners, and there is no differential treatment. Only in special circumstances can such a right be restricted to aliens. This right may be limited based on public safety and order grounds. Such cases are individual in nature and can only consist of the measures prescribe by law. The law imposes sanction in the case of transport to the national territory of a foreign citizen who does not have a travel document by a carrier or by any person in the exercise of a professional activity. Such a situation constitutes a punishable misdemeanour for each foreign citizen transported, with a fine from 100,000 CVE to 300,000 CVE or from 250,000 CVE to 500,000 CVE, depending on whether it is a natural person or a legal person.

128. There are no provisions in the law on citizens' banning, since it is something that is constitutionally forbidden.

Article 13

129. The Constitution recognizes to aliens, and stateless persons residing or found in the national territory the same rights, freedoms and guarantees, as well as the same duties as the citizens. The Foreigners' Law establishes the regime for entry, stay, exit and expulsion of foreigners from the national territory. The government department responsible for this subject is the Directorate for Foreigners and Borders.

130. It is considered illegal entry of foreigners in the Cabo Verdean territory when: it was not carried out by the border control posts; has not been made with a valid document for entry and exit; did not have a valid visa, except in cases where a visa is allowed at the entrance, or when it is danger or serious threat to public order, national security or public health or does not cumulatively meet the legal requirements for entry. It is also considered illegal the stay of aliens in the national territory that has not been authorized under the law, as well as the transit that has not been admitted.

131. The expulsion of foreigners can occur in two ways administratively and judicially. In the first case, expulsion can only be determined on the basis of unlawful entry and stay in the national territory, or the stay in the country beyond the length of stay permitted by the visa or its extension or the term of the residence permit or refusal to renew the residence permit or the period established in a treaty or international agreement to which Cabo Verde is a party. In the second case, the coercive removal of the foreigner is based on the determination of the judicial authority as an accessory penalty for a criminal conviction or, being an alien with legal permanence, as an autonomous measure.

132. As an accessory penalty, expulsion can only be carried out based on the following grounds: if the non-resident foreigner is convicted of an intentional crime in a sentence of more than six months of imprisonment, even if converted into a fine; if the foreigner residing in the country for less than 5 years is convicted of an intentional crime in a sentence of more than one year in prison. In this latter case, if it is a foreigner with a permanent residence permit, the law requires that an accessory penalty of expulsion can only be imposed if its conduct constitutes a sufficiently serious threat to public order or national security, and it must be taken into account the special prevention, the seriousness of the facts practised by the defendant, his/her personality and the degree of integration in the country's economic and social life.

133. Cases of expulsion as an autonomous measure must comply with the international conventions to which Cabo Verde is a party and the foreigner residing or legally staying in national territory may be expelled only on the basis of the following justifications: when it is against the national security, public order and security and morality; when their presence or activity in the country constitutes a threat to the interests or dignity of the State of Cabo Verde or its nationals; when they do not respect the laws applicable to foreigners; when the person has committed acts, which, if known to the Cabo Verdean authorities, would have

prevented him/her from entering the country. In the latter two cases, foreigners who have been born in the Cabo Verdean territory and who are legally residing or who are in charge of underage children of Cabo Verdean or foreign nationality residing in Cabo Verde, on whom they exercise in fact, the parental responsibilities and to whom they provide maintenance shall not be expelled.

134. It is prohibited the collective expulsions of aliens based on nationality, race, ethnicity or religion, and in situations in which the foreigner may be persecuted for political, religious, racial, philosophical conviction or can be applied death penalty or imprisonment or other custodial measures involving life imprisonment or unlimited period imprisonment or may be subjected to torture, inhuman or degrading treatment.

135. In the case of administrative expulsion, the foreigner who is in any of the situations referred to above is: detained, if not already, by any authority and given to DEF; must be submitted to the court within forty-eight hours of detention in order to determine whether to place him/her in a temporary or similar facility or, where appropriate, to apply a coercive measure under criminal law. In such cases, if the foreigner declares that he/she intends to leave the national territory, he/she shall be in the custody of the DEF for the purpose of moving to the border post and removal in the shortest possible time. As an alternative to the detention and expulsion decision, a foreigner who has stayed beyond the authorized period of stay or who has been cancelled the residence permit can be notified by the DEF to voluntarily leave the national territory within the period established for him or her, between ten to twenty days. That period may be extended by taking into account in particular the length of stay, the existence of children attending school and the existence of family members and social ties.

136. In the case of a judicial expulsion, the procedure is as follows: upon becoming aware of any fact that may constitute grounds for expulsion, the DEF organizes a file case, within eight days, in order to summarize the elements of evidence that authorize the administrative decision or the application of an autonomous measure of expulsion, as well as the determination of the assets necessary to incur the expenses with the execution of the expulsion; a report shall be prepared, which shall be submitted, as the case may be, to the DEF Director or to the competent court, within forty-eight hours of its conclusion; the expulsion decision must be rendered within seventy-two hours after the receipt of the case; the expulsion decision is notified or communicated in writing to the foreigner, explaining him/her in a language that he/she may presumably understand; the expulsion decision is executed by the DEF and the period for execution may not exceed forty-five days for resident aliens or eight days for the remaining ones; on the other hand, if the situation is a conviction in criminal proceedings in custodial sentences or other measures involving deprivation of liberty, the decision to expel shall be enforced as soon as the conditions for granting conditional release have been fulfilled.

137. A resident alien against whom expulsion decision is issued may be granted a period of voluntary departure from the national territory, between ten and twenty days.

138. If the foreigner is not installed in a temporary installation centre or in an equivalent space or in a prison in the case of an accessory deportation penalty, he/she shall be subject to the following obligations until the exit period has expired: disclose his/her residence; not absent from the island of his/her residence without authorization; report periodically to the authorities of the border police services; pay a guarantee (see table 15 in the annex).

139. One of the remedies available to foreigners against the expulsion decision is the possibility of litigating the decision. The judicial appeal does not have suspensive effect. It is also guaranteed to foreigners the right of access to legal assistance.

140. In relation to asylum, although Cabo Verde has not ratified the 1951 Geneva Convention on the Status of Refugees, it is party to the 1967 Protocol, as well as the Organization of African Union Convention Governing the Specific Aspects of Refugee Problem in Africa of 1969. Law 99/V/99 regulates the legal regime for asylum and refugee status, however, still lacks regulation. During the period of preparation of this report an application for asylum was requested to the Cabo Verdean Government and was not granted for the reasons stated above. Notwithstanding, authorities ensured the stay concerned person by other mechanisms other than the granting of asylum. The Decree-Law

2/2015 authorizes border authorities to issue a single travel document for foreign citizens, refugees and stateless persons, at their request, in order to guarantee the necessary means for their exit from the country.

Article 14

141. The Constitution guarantees everyone the right to access to justice and to obtain, within a reasonable time and through a fair proceeding, the protection of their legally protected rights or interests. The right to seek judicial protection against acts or omissions of public authorities that violate fundamental rights, freedoms and guarantees is guaranteed under the law and everyone is subject to the law and the right to a fair trial. In Cabo Verde, equality before the law means that the court must ensure, throughout the proceedings, a status of substantial equality of the parties, in particular in the exercise of powers, the use of means of defence and the application of penalties or procedural sanctions. Respect for equality before the law is binding on all authorities and courts. The justice system is based on the rule of law and is administered by due legal proceedings. In conducting and intervening in the proceedings, the magistrates, the parties and the legal representatives must cooperate with each other, in order to obtain, in a timely and effective manner, the just composition of the litigation.

142. The access to justice encompasses not only access to the courts for the protection of rights, but access to legal information, legal counselling and to be accompanied by a counsel before any authority. No one is hindered, limited or prevented from accessing justice, in particular because of their social, cultural or lack of means. Justice cannot be denied due to insufficient financial means or undue delay of the decision. To safeguard individual rights, freedoms and guarantees, the law establishes speedy and priority judicial procedures to ensure effective and timely protection against threats or violations of those rights, freedoms and guarantees. The State, in concert with the entities that are responsible for this purpose, promotes the improvement and development of mechanisms and actions for legal information and legal assistance.

143. The organization of the judicial system and its stakeholders is governed by several laws. The judiciary is organized under the following structures: Constitutional Court (installed in 2015), SCJ, Judicial Courts of Second Instance (installed in 2016), Judicial Courts of First Instance; Court of Auditors, Military Court of Instance, Tax and Customs Courts. Administrative tribunals and arbitration tribunals, as well as bodies for the regulation of conflicts in territorial areas that are more restricted than those in the jurisdiction of the judicial courts of first instance, may also be created. There are no extraordinary courts. The Military Court of Instance is considered a specialized court.

144. The principle of the independence of the courts is a cornerstone of the justice system, so that the courts are subordinated only to the Constitution and the Law and are not subject to any interference. Judges form a single body, autonomous and independent of all other powers. In the exercise of their functions, independence is guaranteed only by obeying the law and their conscience, not being subject to orders or instructions, except for the duty of compliance by the lower courts of the decisions rendered, in appeal by the higher courts. Judges are irremovable and may not be suspended, transferred, compulsorily retired or dismissed, except in cases specially provided for by law. Other guarantees provided by the Constitution are that judges do not respond to their judgements and decisions, except in cases provided for by law and that in no case may be transferred to a judicial area other than that in which they perform their duties, unless expressly consented in writing or the transfer is based on weighty reasons of public interest, of an exceptional nature, duly noted and explained in advance notice.

145. Recruitment and career development of judges take place with the prevalence of the merit criterion of candidates. The procedure for the appointment of magistrates in the trial courts, the Court of Appeal and the SCJ shall be by means of a public competition and on the basis of merit. In the case of the Constitutional Court, it is composed of at least three judges elected by the NA, among persons of reputed merit and competence and of recognized probity, with a higher education in Law. Judges are classified in the categories

and move up in the career because of their seniority and merit. The structure of the basic remuneration payable monthly to judges is the one developed on an indicative scale approved by law and is reviewed annually. Although magistrates are subject to the principle of irresponsibility according to which they do not respond for their judgements and decisions, they are subject, by reason of the exercise of their functions, to civil, criminal or disciplinary liability in cases specifically provided by law.

146. The PPS is an autonomous magistracy and has a single career, being parallel to the judiciary and independent from it. Its function is to defend the rights of citizens, democratic legality, public interest and other interests that the Constitution and the law determine. It also acts as a representative of the State, the holder of the criminal action and participates, under the terms of the law, autonomously, in the execution of the criminal policy defined by the organs of sovereignty. In the exercise of these functions, they act with respect for the principles of impartiality and legality and for the other principles established in the law. The PPS comprises the Attorney General's Office and Attorney's Office. The Attorney General's Office is the highest body of the hierarchy of the PPS, and the Attorney General is elected by the President of the Republic, upon a proposal from the Government renewable and can only cease in the cases provided for by law.

147. The entry into the career of the PPS is done by means of a competition, based on merit, whose requirements are expressly listed in the law, and are not covered by any discriminatory criteria suspected. The career development of the magistrate at the PPS is done by promotion based on seniority and merit. The prosecutors are disciplinarily liable for infractions, even if they are merely unintentional, committed by magistrates in violation of professional duties and acts and omissions of their public life or which are reflected therein incompatible with the decorum and dignity indispensable to the exercise of their functions. They are thus subject to the penalties provided by law.

148. During the reporting period, there were no cases of criminal proceedings against judges or prosecutors. There is the Association of Magistrates to look after the interests of the class. The number of women in the Judiciary and the PPS is as follows (see table 16 in the annex).

149. Women have also occupied a prominent place in the field of justice, and in the current context women are chairing the following positions: President of the SCJ, President of the Superior Council of the Judiciary, President of the Court of Justice of Sotavento (2016), President of the Cabo Verde Bar Association and Minister of Justice.

150. The procedural legislation provides for abbreviated procedures depending on the type of action followed by different procedures and deadlines. The last Report of the CSMJ shows that the rate of resolution per case entered is 98.2%, while the rate of resolution per pending case is 46.6%, and there is a backlog rate of 2.1%.

151. The Cabo Verde Bar Association has regularly warned of delays in legal proceedings, as well as the annual reports of the Superior Council of the Judiciary. There have been frequent demands for increase in judges and bailiffs, but also for greater productivity of the entire system. In the latter case, the CSMJ has suggested strengthening through capacity building, introducing new technologies and legislative reforms that harmonize the right of access to justice and the system's ability to provide a timely and effective response to the endless demands. The concrete proposals have been about alternative means of conflict resolution and trifling courts, of insignificant economic value.

152. The Justice Information System has been in progress since 2014, which has been working on the process of digitization and computerization of the proceedings and is intended to give greater dynamism to the system.

153. With the 2010 constitutional amendment, the CSMJ began to submit to the NA the annual report on the state of justice, a similar mandate that the CSMP also has. The following proceeding flow can be found, see tables 17, 18 and 19 in the annex.

154. A person against whom falls a criminal charge (or required a preliminary inter-party hearing (PIH/ACP)) has the right to a hearing and defence in a formal criminal proceeding. In such circumstances, he/she takes the status of defendant and must be presumed innocent until such proceedings are concluded. The defendant status of is immediately and

compulsorily assigned when: the person, in the course of the investigation of the case, makes statements to the judge, public prosecutor or criminal police body; the person is applied personal coercion measure or equity guarantee; the person suspected of committing or participating in crime is detained; against the person is raised a police report that identifies him/her as agent of a crime and this is communicated to him/her; during any inquiries made the person arises founded suspicion of a crime committed by him/her. Such statute confers on the defendant a series of rights and obligations set forth in CCP.

155. In favour of the defendant, at any procedural stage, is recognized: to be present in all procedural acts that directly concern him/her; to be heard by the judge whenever he/she must make any decision that personally affects him/her; to not answer questions asked by any entity about the facts that are imputed to him/her and about the content of the statements about them; to choose an counsellor or request the judge to appoint one; to be assisted by a counsellor in all procedural acts in which he/she participates and, when detained, to communicate, even in private, with him/her; to intervene in the preliminary stages of the procedure, offering evidence and requesting the necessary steps; to be informed, by the authority before which he/she is obliged to appear, of the rights which he/she is entitled to; to appeal, under the law, to decisions that are unfavourable to him/her.

156. The principle of presumption of innocence is a fundamental right constitutionally recognized to all persons and the cornerstone of all criminal proceedings, which is constructed from this principle laid down in its vestibular arrangement. A person is presumed innocent and treated as such until the conviction is considered res judicata. An accused does not have to prove his/her innocence. The Public Prosecutor and the Judge in charge of a particular case must appreciate the truth and are bound by the principle of legality, objectivity and impartiality to be applied in the course of a fair trial. In the event of a lack of clarity or insufficient evidence on the offence or the liability to be ascertained, the court shall rule favourably to the defendant, a corollary solution to the principle of *in dubio pro reo*. In the context of criminal proceedings, the PPS must collaborate in the discovery of the truth and in the realization of the law, obeying in all procedural interventions the criteria of strict objectivity.

157. At the moment the person is constituted defendant, he/she must be informed immediately of the rights and duties that he/she has in the criminal procedural scope. If, even at the trial stage, when the defendant is questioned or pronounced, he/she declares that he/she does not know the facts that are imputed to him/her, he/she must be given a clear and summary knowledge. The written procedural acts must use the Portuguese language, the oral ones, can also use the Cabo Verdean mother tongue. If a person intervening in the proceeding does not know or does not speak the language of communication, he/she is appointed, free of charge, a competent interpreter, under penalty of nullity of the act. A translator is also appointed when it is necessary to translate a document in an unofficial language.

158. The CCP governs the obligation of assistance of counsellor/lawyer in any questioning of the defendant detained or imprisoned; at the settlement hearing, at the PIH, and at the trial hearing; in any procedural act that is raised the question of its criminal responsibility or diminished criminal responsibility; in appeals; in cases where the law allows statements for future memory and in other cases that the law determines. The judge must appoint a counsellor to the accused whenever necessary or convenient for his/her assistance. The right to communicate in private between the defendant and his/her lawyer is guaranteed confidentiality and lawyers are bound to professional secrecy.

159. The accused has the right to remain silent. He/She can never be forced to respond to questions in a hurry, and whenever he/she asks for or seems to have not understood them perfectly, they must be repeated to him/her. The accused has the right to make statements at any time during the hearing, provided that they relate to the subject-matter of the proceedings, and he/she cannot be obliged to provide them, and his/her silence cannot be harmful to him/her. The accused shall not take an honour oath or commitment in any case.

160. The procedural principles should be widely observed by the parties, prosecution service, the assistant, the accused and his/her lawyer. The provision of statements in the context of the proceedings is based on the principle of orality, before a judge who will

determine whether there is sufficient evidence in fact and de jure which justify criminal prosecution. The PIIL/ACP is an optional procedure in which the decision to prosecute or close the investigation is to be made. It is chaired by the judge and may involve the Public Prosecutor, the accused, the defender, the assistant and his/her lawyer.

161. All evidence presented against the accused must be subject to the rule of adversary. The judge must ensure the effective application of the adversary. The defendant is free to produce the evidence to establish the inexistence of the punishable act and to deduce his/her defence against the accusation. Evidence obtained through torture, physical or moral coercion, or other similar remedy shall be null and void and may not be used or invoked in any way in court. Evidence obtained through arbitrary or unlawful interference, or violation of privacy, domicile, correspondence or telecommunication, without the consent of the holder is also void.

162. The CCP establishes that every defendant has the right to be tried as soon as possible, compatible with the guarantees of defence. In the case of defendants deprived of their liberty, for the reasons allowed by law, procedural progress takes precedence over all others, and shorter procedural deadlines are provided for their accomplishment. The CCP establishes several indicative provisions of procedural deadlines, with due observance of the guarantee of access to justice. The general rule formulated is, "unless otherwise provided by law, 8 days for the execution of any procedural act". In addition to the ordinary procedure, the summary proceeding is provided and the abbreviated procedure.

163. Delays have been one of the major problems in access to justice in Cabo Verde. One of the measures adopted was the introduction of the Mechanism for accelerating the delayed process. In 2015, this mechanism was incorporated into the CCP. By means of this mechanism, when it is verified that the deadlines defined in the CCP for the duration of each phase of the proceeding have been exceeded, the Public Prosecutor, the accused, the assistant or the civil parties may request the acceleration of proceedings. The request is decided by the Attorney General in situations where the case is under the direction of the Public Prosecutor's Office or by the Superior Council of the Magistracy when the proceedings are before the court or judge. From 2015, it was verified that with the CSMJ there was no request for procedural acceleration, whereas with the CSMP, at least 3.

164. The presence of the accused at the trial is mandatory. The general rule is that an offender accused of committing a crime punishable by arrest is inadmissible, except for situations of impossibility created by the accused himself/herself, with intention or negligence and that the court determines that the trial will continue until the end, if the defendant has already been interrogated and the court does not consider it indispensable.

165. A defendant accused of committing a crime that does not amount to a prison sentence may be tried in absentia when: he/she has been notified; it is not possible to obtain his/her attendance at the hearing within thirty days after the first day appointed for trial. If it has not been possible to notify the defendant personally, the notification will be made by notices and ads. In any of these cases, whenever the trial is made without the presence of the defendant, the defendant will be represented by the defender.

166. Any natural or legal person who demonstrates that he or she does not have the economic means sufficient to cover all or part of the normal costs of the proceedings or the fees due to the professionals of the sector for their services are entitled to legal aid. The legal assistance disciplined by law may include: the total or partial waiver of costs and the payment of costs or deferral or payment of benefits; partial or total waiver of payment for the professional services of the sector or its deferral or payment for benefits.

167. Judicial hearings in criminal proceedings are public, unless the defence of personal, family or social intimacy requires restrictions to publicity. In criminal proceedings, up to the stage of the investigation, there is a rule of justice secrecy which seeks to safeguard the existence of sufficient evidence for the prosecution, taking into account the requirement of the principle of presumption of innocence. After this, the act of criminal prosecution must be public in order to guarantee the transparency that every fair trial requires. The disclosure of the case may be limited: where the data of the case are related to intimacy of private life and do not constitute evidence; the reproduction of parts or documents of the case is not allowed, before a judgement in the first instance, unless expressly authorized to the contrary;

the transmission of an image or the sound recording of any procedural act, in particular the hearing of a judgement, unless expressly authorized by the competent judicial authority is not allowed; the transmission of images or sound recording in relation to a procedural actor that opposes it may not be authorized; in cases involving victims of sexual crimes, against the honour and attacks on privacy, it is not permitted to publish, by any means, before or after the hearing, the identity of the victim under 16 years of age; whenever there is a case for a sexual offence whose offender is under the age of 16, the court may order total or partial restriction of the publicity of the procedural act — which can never include a reading of the judgement.

168. The right to appeal is an important right of the accused. The appeal may be made in relation to any decision rendered in a judicial proceeding, and no appeal is allowed in the cases stated in the law. With regard to the conviction, as well as to decisions handed down by the court of first instance, by the Military Court of Appeal and by the Tax and Customs Courts, the appeal to a court of second instance (Court of Appeal) or to the higher courts (Constitutional Court and SCJ) are guaranteed by law.

169. Regarding the review of the sentence, the criminal procedural law also provides for the prohibition of reformation *in pejus*, i.e., it is guaranteed that the final appeal will be filed only by the accused and/or the Public Prosecutor in the exclusive interest of the latter, the court to which the appeal is directed cannot, to the detriment of any of the defendants, even if not recurring: apply a penalty, principal or ancillary, or security measure, which, by its nature, type or measure, must be considered more serious than that contained in the contested decision; to revoke the suspension of execution of the sentence or the prison regime of weekend; apply an accessory penalty not contained in the contested decision; in any event, modify the penalty or the security measure applied in the contested decision. Another important mechanism for defending the rights of the accused is an extraordinary review appeal, which allows for the review even of a final judgement in the terms prescribed by law. In cases where the legal error is proven, legislation provides that the defendant must be compensated for damages suffered, whether they are property or non-property. The compensation will be paid by the State.

170. The principle of *ne bis in idem* is constitutionally protected, and it is expected that no one may be tried more than once for the practice of the same crime. The situations of *res judicata* and *lis alibi pendens* may be known at any stage of the proceeding inofficiously by the courts and deduced by the Prosecution Service as well as by the assistant of the defendant.

Article 15

171. The principles of legality and non-retroactivity are central values of the constitutional system, which stipulates that "penalties or security measures that are not expressly contained in a previous law" and that "retroactive application of the criminal law is prohibited, unless the later law is more favourable to the accused". These principles are also enshrined in the criminal law, which spells out the principle of *nullumcrimen sine lege, nullapoena sine lege*, on the two strands of the *banex post facto*, by providing that no act or omission, may be considered a crime, without a prior law qualifying it as such; and a safety measure may only be applied to states of danger whose conditions are established in a previous law. Another necessary consequence of this principle is expressed in the prohibition of using the analogy to describe a fact as a crime, to define a state of dangerousness or to determine the penalty or the corresponding security measure. The principle of non-retroactive application of the law and criminal sanctions is safeguarded, except in cases where the subsequent law establishes a regime more favourable to the agent. The immediate implication for the person is that, having been convicted, even if it has become final and unappealable, the execution and its penal effects will cease as soon as the part of the sentence that has been completed reaches the maximum penalty prescribed in the subsequent law. These same principles apply equally in military justice both in times of peace and war.

172. The new PC (2003, amended in 2015) consecrated a systematization of criminal offences in a staggered way, safeguarding human life in the first place, and purged the conduct with the lack of relevant legal interest to be protected, e.g., duel, strike, lock-out, adultery, homosexuality, vagrancy, begging, and those substantiating mere crimes against religion or good customs, among other crimes against the State. The amendment promoted in 2015 included criminal offences such as trafficking in persons, embezzlement of use, corruption of international officials, misuse of powers and other conduct consistent with international conventions to which Cabo Verde is already a party on this matter. Moreover, with regard to the more favourable application of the law to the defendant, assuming the principle in its fullness, it established, in a clear way that even if a final judgement is pending, the most favourable law will have to be applied, in such event, the hearing for that purpose shall be reopened.

Article 16

173. All individuals are recognized as having legal personality as prescribed under the CC. Legal personality is acquired at the moment of complete birth and with life and ceases with death. No one may renounce, in whole or in part, his/her legal capacity. The majority is established at 18 years of age. The emancipation of the minor occurs through marriage. Everyone has full capacity for the exercise of his/her rights and can assume contractual obligations and freely dispose of his/her person and property. Cases of diminished capacity due to minority or other incapacity, which prevent him/her from taking care of him/herself, are excluded. Such situations are described exhaustively by the law that determines the need for judicial declaration.

174. The effective enjoyment of this right is closely related to the effective registration of birth, the current CRC reinforced the administrative mechanisms related to this right. A child born in a hospital must, before discharge, have his/her civil registry granted — while at birth born outside the establishment, it must be provided within fifteen days after birth. In addition to the parents or other legal representatives of the minor or to whom they are for this purpose, the declaration of birth shall compulsorily and successively be issued to the following: nearest capable relative who is aware of the birth; director of the health unit where the birth took place or in which the birth was taken, or another official designated by him/her; doctor or the attending midwife who attended the delivery.

Article 17

175. Personality rights occupy a central position in the legal system, and everyone is entitled to good name, honour and reputation, to the image and reserved of the intimacy of his/her personal and family life. This right is also projected on the domicile, considered by the constitution as inviolable, and its invasion prohibited, as well as on freedom of correspondence and telecommunications, which is also inviolable, only being allowed access to the public authorities upon judicial decision rendered pursuant to the law. The rights of the personality are formulated taking into account the various aspects of civil life, being recognized to all people without discrimination. These are rights that cannot be waived, including the right to life, liberty, physical and moral integrity, honour, name, image, privacy, inviolability of domicile and correspondence.

176. Under criminal law, a number of conducts that violates the rights of the personality is foreseen and punished. They are, in general, considered semi-public crimes, depending on the criminal procedure of mere complaint of the victim and shall be punishable by imprisonment ranging from six months to three years, and/or fine, depending on the seriousness of the conduct. With respect to honour, the crimes of libel and slander/defamation are considered private crimes and criminal proceedings depend on the victim's complaint and the prosecution of a private accusation.

177. The domicile as an integral part of the person's sphere of intimacy is also safeguarded in legal system. Its concept is broadly expressed as the place of habitual residence of a person who may reside alternately in several places, being considered as

domiciled in any of them and "professional domicile" means the place where a person exercises his or her profession. This dimension of the right is reinforced by the prediction of crimes of "trespass" and of "violation of professional domicile in special cases", punishable with imprisonment up to three years, being semi-public crimes that depend on mere complaint (see table 20 in the annex).

178. The Law on the Protection of Personal Data (LPDP) shall apply to: the processing of personal data by fully or partly automated means and the processing by non-automated means of personal data contained in or intended for physical files; video surveillance and other forms of capture, processing and dissemination of sounds and images to identify persons; the processing of personal data aimed at public security, national defence and State security, without prejudice to the provisions of special rules contained in instruments of international law to which Cabo Verde is bound and of specific legislation pertaining to the respective sectors.

179. The holder is granted the right of free and unrestricted access to data that are being processed by public or private authorities, including genetic data. Such right includes the right to require corrections, deletion or blocking of data whose treatment does not comply with the provisions of the law. The processing of personal data must be conducted in a transparent manner and in strict respect for the intimacy of private and family life, as well as for the fundamental rights, freedoms and guarantees of the citizen. The LPDP prohibits the processing of personal data relating to political, philosophical or ideological beliefs or opinions, to religious belief, political party affiliation or trade union membership, racial or ethnic origin, private life, health and sexual life, including genetic data. Only in exceptional cases, expressly enumerated in the law, can this processing be performed.

180. The CNPD was created as an independent administrative entity and its responsibility is to control and supervise compliance with legal and regulatory provisions in this matter. The violation of some of the obligations, such as deleting, destroying, damaging, suppressing or modifying data, constitutes a crime and the penalties vary from two years to the fine or may constitute administrative offence also provided by law. Evidence that results from intrusion in private life, home, correspondence or telecommunications without the consent of the respective holder, except in cases strictly provided by law, is null and void. Restrictions on the rights of the personality are admissible only when duly justified by reason of national security and criminal investigation purposes, but only in cases expressly provided by law.

181. The CCP, when dealing with the mechanisms to determine the traces left by the practice of a punishable fact and that can indict the persons who committed or against whom it was committed, authorizes the examination of person. If any person wishes to dispense him/herself or obstruct any due examination, he/she may be compelled to do so by a decision of the competent judicial authority. The examination must always be carried out with respect for the personal dignity of the person examined, and the person must be advised by the competent authority before being examined that he/she may be accompanied by a person of his/her confidence.

182. Another situation envisaged in criminal proceedings refers to searches when authorized or ordered by the competent judicial authority. Only in two situations does not require the prior authorization of the judicial authority: in cases of terrorist crimes, a criminal organization or punishable with a maximum limit of more than eight years, committed with violence or threat of violence, or even of suspects in imminent flight; and when there is reason to believe that the delay may represent a serious immediate danger to the life, physical integrity, freedom or subsistence of the constitutionally protected rule of law. The proceeding must be notified immediately to the competent judge who must assess the situation for validation purposes.

183. With regard to the inviolability of the domicile, only with a judicial warrant issued in accordance with the law or, in case of in the act disaster or to provide assistance, a person may conduct searches or seizures in it. Further conditions are also laid down for home searches at night, which are not normally allowed to anyone before seven or after 8 p.m., with exceptions only where there is: the consent of the person concerned; for the provision of relief or in cases of disaster or others that constitute a state of necessity under

the law; in the act, or by a court order expressly authorizing, in cases of particularly violent or organized crime, in particular, terrorism, trafficking in persons, arms and drugs. The CCP indicates the situations in which the act should be presided over by a Prosecutor or by a Judge. In cases of in the act or for the purpose of providing relief, the home searches may be ordered by the PPS or carried out by a criminal police body.

184. There are also special situations of search in offices, cabinets or offices of professionals, in media facilities, in university establishments that impose further requirements; in addition to the intervention of the competent judicial authority, there should be the control of the representative body of the professional class, if any; the none compromising of the information dissemination; and the presence of the person in charge of the educational establishment.

185. In cases of correspondence and interception and recording of telephone, telematic or other communications, they may only be seized by the public authorities upon judicial decision based on the reasons prescribed in the law. The Law on Crime Prevention set clear guidelines on the conduct admitted in the framework of the criminal investigation aimed at preventing arbitrary behaviour of public officials and possible violations of the right to privacy. The PPS shall be responsible for coordinating and supervising the investigative acts of the criminal police agencies.

186 The law confers solely on the Judicial Police the competence to perform acts or investigations with respect to crimes of abusive language, threat, coercion, deprivation of private life, when committed by telephone or other similar forms. In the other cases where the crime of abusive language, threat, coercion and deprivation of private life is in question, the competence is of the PN.

187. With regard to the video surveillance system in public settings and in places of access prohibited or conditioned to the public, the applicable regime is regulated by Law. It is only allowed based on the purposes to ensure the protection of people and property, public safety and order, prevent the commission of crimes and assist criminal investigation. The law takes care of the need for such outstanding objectives to be proportionate to the protection of the right to privacy and other fundamental rights.

188. In civil proceedings, given the protection of the right to privacy, access to pending or closed cases may be limited; the court's inspections may be limited and the duty of collaboration to uncover the truth is unnecessary. In criminal proceedings, the law guarantees that they cannot be forced to testify about facts entrusted to them or that they have learned by virtue of the exercise of their ministry, profession or function: ministers of religious confession whose statutes or purposes do not contradict or violate the foundations of the Cabo Verdean legal order; lawyers, solicitors, prosecutors, notaries, doctors, medical assistants, pharmacists, journalists, members of credit institutions and other persons whom the law allows or imposes on them to keep professional secrecy; civil servants in relation to facts that are secret under the law, or that, because of due obedience, are not allowed to disclose. In criminal proceedings, the disclosure of the acts may be restricted in order to safeguard data relating to privacy in certain stages of the proceedings, as well as when it has been authorized the interception and recording of telephone, telematic and other communications, judicial authorities that have become aware of its content have a duty of secrecy in this respect.

189. Against possible violations of the law occurred in the context of criminal proceedings, the general mechanisms for judicial protection, for invocation of criminal, administrative and civil liability, are available to the victim. As a measure of last resort, having exhausted the ordinary channels, the appeal for legal protection can be used. The habeas data is the remedy specially provided for all citizens to safeguard the right to privacy. During the reporting period, no habeas data request was filed. Regarding infractions related to the processing of personal data, claims and complaints may be addressed to the National Data Protection Commission.

Article 18

190. Freedom of conscience, religion and worship are inviolable and safeguarded by the CRCV and the Law of Religious Freedom and Worship (LLRC). Everyone has the right, individually or collectively, to profess a religion or not, to have a religious belief of his/her own choice, to participate in acts of worship and freely to express his/her faith and to spread his/her doctrine or belief, provided that he/she does not harm the rights of others and the common good. No one shall be discriminated against, persecuted, harmed, deprived of rights, granted or exempt from duties because of his or her religious beliefs or practices. There is also the freedom of churches and other religious organizations, as well as it is assured the status of the conscientious objector.

191. The law enunciates the right in question quite broadly. The separation of the State and of the Churches is a guiding principle, but with due regard to the plurality of Cabo Verdean society, the State must guarantee the freedom of religious practice and the tolerance environment. A constitutionally imposed limit refers to its exercise so as not to harm the rights of others. Freedom of religion and worship does not authorize the commission of crimes or acts incompatible with life, physical integrity, dignity of persons or morality, or violation of values, principles, rights and fundamental duties, nor the damage to the common good, religious practices involving human sacrifices, immolation by fire, persecution of "witches", incitement to war of religious motivation, execution of religious sentences of death penalty, bigamy, criminal usury, ill-treatment as a form of exorcism are strictly forbidden, castrations or excisions, the prevention of medical treatment for minors or dependent persons or indispensable for the preservation of life, as well as the exercise of political rights.

192. *Underpro libertate* philosophy, freedom of information on religion, as well as the right to learn, teach and reproduce works in religious matters is safeguarded and the circulation of such material is free. Churches and other religious communities are free in their organization and exercise of their own activities and are considered partners in promoting the social and spiritual development of the people. It is assured the freedom of religious assistance in hospital, care, and prison facilities, as well as among the armed forces, under the law and the right of the churches to use the means of social communication to carry out their activities and purposes. The PC protects the freedom of religion and worship, against acts that aim to prevent or disturb them, by means of violence or threat of violence, providing for a term of up to eighteen months or a fine of up to 150 days, if more serious punishment is not applicable, for crimes as "profanation of place or object of worship" and "impediment or disturbance of an act of worship".

193. For the legal recognition and authorization of religious communities, it is necessary to register in the national registration system or, if they have the form of a foundation or association. The application for registration of religious bodies must meet the requirements objectively established, which are generally related to aspects of religious organization, principles, mode of attachment, identification of holders, and other information. The registration or endorsement in the system of national registration of religious communities can only be refused based on lack of legal requirements; falsification of documents; violation by the advocated doctrine, norms, and worship of the values enshrined in Constitution, public order and constitutional and legally established limits of religious freedom. There were few cases of refusal to register religious communities, and the main reason for this has been the failure in meeting some demanded requirements, and the opportunity has been given to fill the gap, which sometimes does not occur for lack of interest of the applicant.

194. Pursuant to the principle of non-discrimination, as well as the separation of the State from the Church, the dominant religion and the others cannot enjoy differentiated status under the Constitution and the law currently in force. It happens that, since Cabo Verde is a country marked by the presence and influence of the Catholic Church, there is still a strong presence, even in some laws. Thus, as far as the recognition of the Catholic Church is concerned, it has been exempted from the requirements of the law (which is in force since 1968), and has enjoyed a broadcast time for the transmission of the cult through the public television. However, none of these situations has been considered or invoked as privileging

the Catholic religion — because the former refers to the old requirement as mere formality and, secondly, because it is available to other religious groups.

195. Churches and recognized religious communities or organizations are able to apply for and obtain authorization to provide moral and religious education in the public elementary and secondary schools they indicate. The students are not obliged to attend such classes. Parents are also guaranteed the right to guide the education of their minor children (under the age of 16) in accordance with their own religious beliefs. Recogni.ed religious communities shall be exempted from any general, national, regional or local tax, fee or contributions indicated by law.

196. Conscientious objection is a right recognized to the members of a religious community to obstruct the observance of laws that violate their moral integrity in such a way as to make it unenforceable within the limits of the rights and duties imposed by the Constitution. The objection may be invoked for the refusal of the provision of compulsory military service by citizens who are convinced that for reasons of religious, moral, humanistic or philosophical order it is not lawful for them to use violent means of any kind against their fellow man, national, collective or personal defence. This statute is acquired by judicial decision rendered in accordance with the applicable legislation and depends on the initiative of the interested party.

197. If compared to those who regularly serve military service, the conscientious objector has some differentiated rights and duties. Such status confers on its holder the inability to perform a public or private function that imposes the use and possession of weapons of any nature, to be holder of an administrative license to hold, use and carry weapons of any kind and to be holder of authorization of use and possession of a defence weapon when, by law, it is inherent to the public or private function it exercises. In the scope of duties, the conscientious objector may be extraordinarily summoned to render civic service appropriate to his/her status, if so decided by the competent authorities, in case of war and state of siege or emergency. The status of conscientious objector does not exempt the citizen from the requisition.

198. A data collection carried out with the Courts' Secretariats throughout the country showed that at least 52 applications for recognition of conscientious objector status had been received. It is found that many of the requests are pending decision, this in practical terms has not affected the enjoyment of the right on the part of its holder, since the mere proof of existence of pending action in court has exempted the applicant from the fulfilment of the compulsory military service.

Article 19

199. The right to have an opinion is one of the fundamental rights. Freedom of expression and information is protected and complemented by the consecration of freedom of the press, provided for in the CRCV, which guarantees the freedom and independence of the media with respect to political and economic power and their non-subjection to censorship of any kind.

200. It is constitutionally foreseen the freedom of expression and dissemination of ideas by word, image or any other means, and no one can be disturbed by their political, philosophical, religious or other opinions. The freedom that everyone enjoys informing and to be informed, seeking, receiving, and disseminating information and ideas, in any form, without limitations, discrimination or impediments is also ensured. It is prohibited to limit the exercise of these freedoms by any type or form of censorship, and therefore there is no institutionalized control established to that effect. It is a broad rather comprehensive right; its exercise needs to be weighed against other fundamental rights and relevant public interests. The right to honour and consideration of persons, the right to good name, the image and privacy of personal and family life are constitutionally imposed as limits to the freedom of expression. Freedom of expression is still limited by the duty of protection of children and youth; prohibition of the apology of violence, paedophilia, racism, xenophobia and any form of discrimination, notably against women; interdiction of the dissemination of appeals to the practice of said acts.

201. The natural or legal persons are guaranteed, under conditions of equality and effectiveness, the right of reply and correction, as well as the right to compensation for damages suffered as a result of violations committed in the exercise of freedom of expression. In cases of misuse of this right, in its most serious form, criminal law provides for slander and libel and abusive language/defamation as crimes. In both cases, the conduct is aggravated if there is repeated publicity or practice against the same person, as well as against the quality of the victim. The offences, both in defamation and in libel, may be verbal, written, by gestures, images or any other means of expression. The law provides for the grounds for excluding the unlawfulness, not being considered a crime of libel.

202. In order to guarantee the proper protection of this right, with the support of other rights, freedoms and guarantees of the system, the legal system has a set of laws aimed at disciplining various aspects of the circulation of information. In the case of journalists, the law did not subject the activity to any licensing process, but it does require some requirements to be met. During the reporting period there was no case of detained or imprisoned person or incidents of serious violence or threat of violence against journalists because of the expression of their political views.

203. The creation or foundation of newspapers and other publications does not require administrative authorization, nor can it be limited to previous collateral or any other guarantee. But the license must be granted through a public tender. The legal regime governing the ownership and licensing of the media sector establishes that natural and legal persons are free to access and exercise this right, except in cases where it is necessary to use public domain assets for the exercise of the activity. In this sector, the State may exercise, directly or indirectly, the activity, or grant, prior to public tender, its exercise to public or private entities. Concerning the specific domains of the media, in the case of the broadcasting activity, it is also established the possibility of access by public, private or cooperative entities by observing, in any case, the licensing system which defines by means of a public tender the conditions for the allocation of permits/licenses, the reasons for the rejection of the proposals and the rules of transmission, cancellation and period of validity.

204. The television activity may be exercised by public and private operators. The license must be granted by public tender or by mere authorization, by order of the members of the government responsible for the areas of media and telecommunications. It is the responsibility of the State to ensure the existence and functioning of the public television service, in this case, the Constitution does not require the granting of a license. It is also envisaged that all television program services made available to the public must do so through the infrastructure of the national company responsible for the distribution, transmission and dissemination of digital television signals and subscription television services with conditional and unconditioned access and on-demand audio-visual services may be made available to the public through the infrastructure of authorized pay-per-view TV operators.

205. With regard to internet services and Internet providers, it is technology introduced in Cabo Verde through a company with public capital. It is an industry that has been subject to liberalization, but has been subject to regulation scrutinized by the ANAC. Regulation in this area has stressed the goal of universal service in order to benefit the maximum number of users in terms of choice, price and quality. Access to the press, publishing and news agency activities is free, without prejudice to the administrative formalities required for the exercise of any commercial or industrial activity. This activity may be carried out by any entity, be it natural or legal entity, public or private, national or foreign, as long as it is registered. Access to this activity is not limited on authorization or license, but rather mere communication for registration purposes.

206. Through statistical studies, information on the satisfaction and audiometry of the media has been collected periodically. Noting that among print newspapers, online newspapers, radios and television, there are companies that are owned by public entities and others by private ones. Notwithstanding, the media belonging to the public entity are the most widely disseminated; the evaluations carried out show that the level of independence and quality of information has been considered as positive or very positive. It has been observed in practice that the public-sector media has been ensured the expression and confrontation of ideas from the different currents of opinion and the State has

guaranteed the exemption of the public-sector media, as well as the independence of its journalists from the Government, the Administration and other public authorities.

207. Foreign companies and media may carry out the activity of collecting, processing and disseminating news to be edited or published abroad by themselves provided they are registered and their correspondents are accredited to the governmental department of the media sector. Only in cases in which such foreign companies or media intend to carry out the commercial communication activity, must they obtain the necessary administrative authorizations and licenses and submit to the general rules for access and exercise of the activity.

208. So that there is no arbitrary interference with this right, in particular, that political opinion is not used by public authorities as a reason to discriminate against a person or a basis to restrict the person's liberty, the last constitutional revision of 2010 has now stipulated that to an independent administrative authority to ensure the regulation of the media, as well as ensure: the right to information and freedom of the press; the independence of the media before political power and economic power; pluralism of expression and confrontation of currents of opinion; respect for fundamental rights, freedoms and guarantees; the statute of the journalists; the exercise of broadcasting rights, response and political reply.

209. This entity is the Regulatory Authority for the Media (ARC), established in 2015, whose members are elected by the NA. Since the beginning of its activities, the ARC has already adopted circulars, communications, deliberations, guidelines, opinions and relevant recommendations, of which the most noteworthy are those related to the elections held throughout 2016 and which sought to be based on the defence of freedom of expression and the press, pluralism, rigour and objectivity. Prior to the installation of the ARC, the supervision of the freedom of expression and media was done by the Media Council. The ANAC also plays a complementing role by taking care, since 2006, of technical and economic regulation of the communications sector. Concerning the non-use of political opinion by public authorities as a reason to discriminate against a person or a basis to restrict the person's freedom, it is noted that the EC expressly provides for the neutrality and impartiality of public entities. The CNE is responsible for overseeing compliance with this indication and has already produced deliberations on it. Other measures taken to strengthen the right in question and worthy of mention are the Strategic Plan for the Media Sector 2013–2016, which aims to strengthen the capacity of the media sector, and the creation of the Support Fund for the Development of the Media Sector (2015).

Article 20

210. The Constitution prohibits armed or military or paramilitary associations and those designed to promote violence, racism, xenophobia or dictatorship or which pursue purposes contrary to criminal law. The incitement to war or to anyone who, publicly and repeatedly, by any means incite hatred against a people, an ethnic, racial or religious group, with the intention of totally or partially destroying this people or group or of unleashing a war, the law provides for such conduct as a crime and punishment of imprisonment from two to six years. It is considered as aggravated homicide the one committed by the agent due to racial, religious or political hatred or caused by the sexual orientation and gender identity of the victim, in which case the prison sentence is fifteen to thirty years.

211. The laws applicable to the media widely prohibit incitement to nationalist, religious or racial hatred or even any form of incitement to discrimination, hostility or violence. No transmissions of programs or messages that incite to violence or are contrary to criminal law or generally violate fundamental rights, freedoms and guarantees are allowed. In these cases, the possibility of imposing civil liability for agents is also envisaged, in addition to the criminal case described above.

Article 21

212. Every person enjoys the right to assembly and demonstration in accordance with the CRCV and the Law on the Right of Assembly and Manifestation (LDRM). It consisted in the right to assemble, peacefully and without arms, even in places open to the public, without the need for any authorization. Promoters of open or public meetings shall only communicate their purposes, in writing, at least 48 hours in advance, to civil and police authorities in the area, which is to say that they are not subject to any authorization. The communication must be signed by ten of the promoters, duly identified, by name, profession and address, or in the case of collective entities, by their respective management bodies and must include the time, place and form of manifestation or meeting that is intended to be carried out.

213. The enjoyment of these rights is a corollary of freedom of expression, therefore may be restricted only in cases provided for by law and which are necessary for the protection of public order, public health or morals, and the fundamental freedoms and rights of others. The LDRM provides for two types of restrictions classified as "absolute prohibitions" and "relative prohibitions". The former indicates that meetings and demonstrations whose purposes are contrary to law, morality, public order and tranquillity, and to the rights of natural and legal persons are prohibited. The latter indicate that it is not permissible to hold meetings or demonstrations with an abusive occupation of public or private buildings, as well as holding meetings or demonstrations in public places situated less than 100 m from the headquarters of the Sovereign and Local Authorities, of camps and facilities of the military and militarized forces, prisons, diplomatic or consular representations and political organizations for security reasons.

214. During the reporting period, there are no records of meetings that have been banned for the reasons mentioned. The prohibition decisions referred to above are the responsibility of the civil authority in the competent area and must be substantiated and notified in writing to the promoters at the address indicated by them and within twenty-four hours of receipt of the communication from the authorities. Failure to notify the promoters within that time-limit of the prohibition decision shall be considered as no objection by the authorities. Meetings and demonstrations held in public places or open to the public may be interrupted by the police authority if there is a deviation from its object and initial purpose, by acts that constitute "absolute prohibitions" or "relative prohibitions". In such cases, a report must be given to the promoters, which must mandatorily state the reasons for the interruption order.

215. The NP has the mission of guaranteeing internal security. In public meetings, NP officers should, with respect to the rights, freedoms and guarantees of citizens, ensure the maintenance of public order, security and tranquillity, as well as protect people and their property. During the reporting period there are no records of violence used against peaceful and non-armed demonstrations.

Article 22

216. The right of association is free and shall be governed by several scattered laws. Freedom to associate means that the exercise of such right is not conditional on any administrative authorization, the pursuit of its purposes must also be without interference from the authorities and the dissolution or suspension of its activities can only be determined by judicial decision. A limit imposed by the CRCV is that armed or military or paramilitary associations are prohibited, and those designed to promote violence, racism, xenophobia or dictatorship or to pursue purposes contrary to the law. Because it is a consequence of freedom, no one can be forced to associate or remain associated.

217. With regard to non-profit associations, the act of constitution and extinction is provided for by law, which, stipulates criteria to be fulfilled regarding the communication of the name, purpose, headquarters, possible rights and obligations of the members, with a view to recognizing the legal personality of the association, as well as the rules on advertising of the registration. The public authority must confine itself to verifying that the criteria objectively provided for in the Constitution and the law have been met.

218. The situations of refusal of registration, extinction of associations and possibility of legality control, in this case of jurisdiction of the courts, are subject to a thorough legal treatment, being allowed only for the purpose of reviewing the compliance with the law, public morality and other fundamental rights. These rules are applicable to youth associations and to civil society organizations for development, which are part of the organizations for the promotion of human rights. Registries and Notaries, responsible for the administrative management of matters relating to associations, only reject registrations, which do not meet legal requirements and have invited applicants to fill in their application gaps — which is sometimes not done. In the event of any refusal of registration appropriate means are provided for the safeguard and protection of this right, namely, complaint to the entity itself, ordinary appeals and the appeal for legal protection.

219. Associations dedicated to the promotion of human rights, like any association, have the right to operate freely in the light of the above terms. The Law, recently defined the status of civil society development organizations, including those dedicated to the promotion and defence of human rights, (such as through patronage, exemptions from notary fees and customs duties) to such organizations, in particular by the Government and municipalities, in order to promote activities of public interest. Civil society entities dealing with the topic are seen as unavoidable partners and financial support has been, directly or indirectly, granted. Since 2006, the CNDHC has also established the "National Prize for Human Rights" which aims at awarding, every two years, among other categories, initiatives by civil society associations that have excelled in the promotion of human rights. There are around 30 human rights associations.

220. The law confers differentiated status for the case of political associations and political parties. The former is created with a view to promoting democratic participation in the political life of the country, do not require authorization to do so and must be subscribed by at least 50 citizens. The latter, are differentiated by competing for the formation of the political will of the people and for the organization of political power, intervening in the electoral process through the presentation or sponsorship of candidacies. In the case of political parties, the law guarantees freedom of establishment, and acts of constitution, merger and coalition do not require authorization.

221. Some limitations are imposed, such as: prohibition of political parties from adopting denominations that, directly or indirectly, identify with any national territory or with a church, religion or religious denomination or that may evoke the name of a person or institution; the non-possibility to adopt emblems, symbols and acronyms that are the same or confused with national or municipal symbols; a ban on the constitution of parties having a regional or local scope or proposing programmatic objectives of the same scope; or which use subversive or violent means in pursuit of their ends; or even that has armed force or paramilitary nature.

222. Certain obligations are imposed on political parties which shall: respect the independence, national unity, territorial integrity of the country, democratic regime, multi-partisanship, rights, freedoms and fundamental guarantees of the human person; and be governed by principles of democratic organization and expression, and the approval of the respective programs and statutes and the periodic election of the heads of the national governing bodies must be done directly by their members or by an assembly representative of them. Political parties can only be compulsorily extinguished by an informed judicial decision against a serious breach. There are currently seven political parties in Cabo Verde. During the reporting period, no political organization has been identified that has been banned and much less punishments to its members.

223. The creation of trade union associations or professional associations does not require administrative authorization. To trade union associations, it is guaranteed its full organizational, functional and internal autonomy, being independent of the State, employers, parties and political associations, church or religious confessions, although they are based on the principles of democratic organization and management, based on the active participation of its members in all its activities and on the periodic election and secret ballot of its members. There is no restriction on particular sectors or on certain categories of workers regarding the exercise of freedom of association. With respect to foreign workers legally residing in Cabo Verde, the right to freedom of association in trade union

organizations and the right to strike is recognized, under the same terms and conditions established for nationals. The right to strike constitutes one of the rights of workers and trade unions.

224. The Labour Code regulates the exercise of the right to strike and ensure the free exercise of rights by trade unions. The law establishes the principle of the independence of trade union associations in the sense that their activities should be exercised without any subordination to employers' entities and organizations, to the Government or other public entities, to political parties and religious institutions; the protection of freedom of association by prohibiting any agreement or act which is intended to subordinate the worker's employment to the condition whether or not to join a trade union, or to withdraw from it, or to undermine in any manner whatsoever by dismissing or transferring him/her, by reason of his/her union membership or not, or other union activities; situations in which it is prohibited to substitute striking workers and the minimum services regime.

225. Although there is no concrete data on the percentage of the labour force belonging to a union, there are two major trade union centres, the UNTC-CS (Cabo Verdean Workers Union-Union Confederation) and CCSL (Cabo Verdean Confederation of Free Trade Unions). The UNTC-CS has more than 35,000 registered members. A study carried out in 2004 shows that 87% of unionised workers are members of UNTC-CS and 13% of CCLS.

Article 23

226. The law that governs marriage contains norms that ensure equal treatment between men and women. The minimum age for marriage is 18 years for both sexes, exceptionally, the marriage of minors from the age of 16, of either sex, is allowed, provided that there is parental consent or, in the absence thereof, by judicial decision. The law prohibits any and all marriages under 16 years of age.

227. Rights and duties arising from the marriage relationship are provided for on an equal basis for men and women. Divorce may be requested to the competent court by both spouses by mutual agreement or by one of them against the other, where the union on which the marriage is founded is completely and permanently broken in such a way as to make it impossible for the marriage to fulfil its social purpose. In cases of suspension and termination of the marriage relationship, both parents retain parental responsibility for the minor child, whose custody must be regulated by the competent court. The protection of children in these circumstances is ensured through judicial intervention, which must ensure a solution that is in accordance with the best interests of the child, taking due account of the generality of their interests.

228. Marriage is one of the causes of attribution of nationality to the non-national spouse, provided that the latter declares in the course of the marriage wanting to acquire it. Termination of marriage on grounds of divorce does not imply loss of nationality. Even the declaration of nullity or annulment of marriage does not prejudice the acquisition of nationality by the spouse who contracted it in good faith. With regard to the nationality of the children, both the father and the mother can attribute the Cabo Verdean nationality to their descendants. Both the jus soli, and the *jus sanguinis* criteria have considered for the attribution of nationality.

229. The family is the fundamental element and the basis of the whole society. It is one of the tasks of the State to assist the family in its mission of guarding the moral values recognized by the community. Cabo Verde has adopted legislative measures to promote the social and economic independence of households through social housing programs and in order to cooperate with parents in the education of their children through the maintenance of the public education system. Legislation protects family relationships arising from non-marital cohabitation by attributing them the same effects of marriage.

230. The Law predicted rules on family reunification. A foreigner with a residence permit has the right to family reunification with family members outside the national territory, who have lived with him/her in another country, who depend or cohabit with him/her, regardless of whether family ties are before or after the resident's entry into Cabo Verdean territory.

231. Legislation prohibits polygamy and forced marriage.

Article 24

232. The protection of the rights of the child enjoys special attention and it is the duty of the family, society and public authorities to ensure their integral development in all aspects of life, with due respect for the principle of the best interests of the child. The right to the name is safeguarded. Every child should be registered immediately at birth. Periodically, awareness-raising and information campaigns are carried out promoting this right. The right to acquire a nationality is recognized. The Constitution prohibits discrimination, thus encompassing situations of discrimination related to the nationality of the child and the fact that it was conceived within or outside the marriage. The legal majority in civil terms is reached 18 years of age. With respect to the right to inheritance, descendants are considered first-class heirs of successors. Therefore, a child, irrespective of his or her nationality, regardless of the circumstances of his or her birth, within or outside of a marriage inherits their parents.

233. Whenever the best interest of the child requires, he/she may be separated from his/her family by prior judicial decision. There have been situations of mistreatment, sexual, emotional or psychological abuse within the family and cases of abandonment (from parents with substance abuse problems, especially alcohol, mental and emotional disorders, HIV/AIDS, family conflicts) or orphan, including fostering children with cognitive impairment. To address such situations, Cabo Verde has maintained the following measures to protect children and adolescents deprived of their family environment: Host family networks; Emergency Program for Children; Disque Denuncia Project; Protection and Social Reintegration Program in the Reception Centres (five centres); Program to support orphans and other children in situations of vulnerability. Within the Child Emergency Program, the care and respective referrals were (see tables 21 and 22 in the annex).

234. The calls in the Toll Free Disque Denúncia Program were as follows, see table 23 in the annex.

235. The following cases of social assistance to children were addressed, see tables 24 and 25 in the annex.

236. As far as child trafficking is concerned, it is the duty of the State to protect the child and the adolescent against the unauthorized and illegal circulation in national territory or exit towards outside the country. The same requirements apply in the case of a foreign child. The NP is responsible for supervising the movement of children at the country's air and sea borders, and the courts have analysed applications for travel permits abroad. The country's biding to The Hague Convention for International Adoption and the adoption of the Adequacy Law of this Convention and the establishment of the Attorney General's Office as the central entity to deal with the issue, are important steps taken to ensure the protection of the child. To address child labour, Cabo Verde has adopted an articulated set of legislative, institutional and administrative measures aimed at its prevention, control and elimination.

237. The LMTSE disciplines the socio-educational measures applied to minors between 12 and 16 years old who have committed acts comparable to crime. This intervention does not aim at punishment, but can only occur when the need for correction of personality persists at the moment of the penalty. The socio-educational process is closer to the criminal procedure, with particular emphasis on the observance of the right to be heard, to defence, to the principle of adversary proceedings and to "judiciality", in the sense that all conduct that demands a custody measure must correspond to an action disciplined and regulated by the judicial authorities (see table 26 in the annex).

238. The law provides for the following possible measures to be applied: admonition, compensation to the offended person, performance of tasks in favour of the community, imposition of rules of conduct, imposition of obligations and lastly of institutionalization. The court is the entity with powers to apply socio-educational measures and the Orlando Pantera Socio-Educational Centre in Praia, is the only one in the country that can house

children under institutionalization. The socio-educational measures applied were as follows, see table 27 in the annex.

239. The implementation of the measures and the rules of operation of the Centre shall be based on the same principles as the dignity of the person and the fundamental rights granted to any person. The DGSPRS provides educational and vocational training programs for institutionalised minors, which have been regularly fulfilled. Youth above 16 years of age are considered to be of full age for the purposes of criminal responsibility.

Article 25

240. Electoral system is defined by the Constitution and by the Electoral Code. The CNE ensures the electoral administration and the Courts judges the legality and validity of the electoral process. The General Directorate for Support to the Electoral Process, as a public administration body, supports the operations of the electoral process. The Constitution defines "universal, direct, secret and periodic voting" to be exercised by the people to designate the members of the elective organs of political power. There are three electoral systems: Majority elections for President of the Republic; proportional elections for Members of the NA; and at municipal level, proportional elections for a deliberative body and a mixed election system for the municipal executive council.

241. Elections are territorially organized in constituencies and, in the case of the election for President of the Republic, the national territory constitutes a single constituency. For the purpose of electing the Members of the NA, the national territory is divided into electoral constituencies, as a rule, corresponding to each island, with the exception of the island of Santiago which is subdivided into two circles. Voters residing outside the national territory are grouped into three constituencies which cover African, American and European countries and the rest of the world. Except in the case of the elections of the President of the Republic, candidacies are submitted by registered political parties, alone or in coalition, and, in the case of municipal elections, also by groups of independent citizens. Political parties, coalitions or groups of independent citizens may not present in each constituency more than a list of candidates for the same electoral act.

242. To ensure freedom and periodic elections, the relevant institutions have safeguarded the observance of the right to active participation in campaigns and scrupulously followed the deadlines and procedures for scheduling the elections. The parameters of the exercise of freedom of expression in campaigns are duly explained in the EC. It is also ensured that voter registration operations are carried out at all times with stipulation of the time limits for inspection, complaint and correction that may be required. The aforementioned guarantees have been provided by the intervention of the CNE and the courts, notably, the Constitutional Court. In the case of the CNE, as an independent and permanent body that works under the NA, composed of members with immovability assurance, it has already gathered a set of deliberations, recommendations and opinions in the various electoral processes carried out in the country, which deal with relevant issues, namely: verifying the smoothness of voter registration books (elimination of multiple registrations and deceased enrolees); organization of human resources training; receives and analyses complaints and denunciations; supervises the processes of early voting, request for transfer of voting place and accompanied vote; supervises election campaigns; prohibits the distribution of grants during the election period.

243. To ensure that political rights are exercised in regular, honest elections, by means of universal and equal suffrage and by secret ballot, the norms ensuring the free expression of voters' will and electoral processes are regulated in the EC. All citizens duly registered, over 18 years of age, enjoy the right to participate in political affairs, to exercise their right to vote and to have equal access to public service. Foreigners and stateless persons may be granted active and passive electoral capacity for municipal elections. Foreign and stateless voters of both sexes, over 18 years old, registered in the national territory and legally with habitual residence for more than three years may vote. Foreign and stateless voters with legal and habitual residence may be elected for more than five years.

244. Voting is not compulsory, but it is a civic duty. The right to vote can only be exercised personally by the citizen, and no form of representation or delegation is allowed. The rules governing the secrecy of voting and the manner in which they are exercised are laid down in the EC. The right of political participation cannot be limited except by virtue of the incapacities established in the law. The EC establishes the situations in which citizens may be excluded from the exercise of this right, namely: those prohibited by a final judgement; those notoriously recognized as mentally ill, even if they are not interdicted by sentence, when they are admitted to a psychiatric service or establishment or when declared as such in a medical certificate; those who are suspended from the exercise of their political rights by a final judicial sentence.

245. With respect to prisoners or detainees, the Constitution safeguards that no penalty or security measure has, as a necessary effect, the loss of civil, professional or political rights.

246. To address the factors that may impede the right to vote, the entities that act in the electoral processes have adopted the necessary measures for strict compliance with the law, especially in the case of blind and disabled persons voting, early voting for certain categories (such as military personnel, law enforcement officers or security services, health or civil protection workers, maritime and aeronautical workers) or persons who are in any way limited (as a result of illness, judicial deprivation of liberty, because they are exercising their functions as members of a polling station, because they are candidates registered in a different constituency or journalists are transferred to a different municipality). Illiteracy does not constitute a barrier to the exercise of the right to vote. Ballot papers identify candidates or parties with photos or pictures. Poverty and language barriers are also not impediments to the exercise of the right to vote.

247. There are three public elected positions: President of the Republic; National Members of the Parliament; and Municipal Elections. For President of the Republic, eligibility conditions are duly established by the law. Other restrictions imposed concern: those who, having served two consecutive terms or exercising the second consecutive term, cannot, under constitutional terms, apply for a third term; those who, having resigned as President of the Republic, are within the constitutional term of prohibition of new candidacy; those who have abandoned the post of President of the Republic or, in that capacity, have left the country without observing the constitutional formalities; those who have been definitively convicted of a crime committed in the exercise of the functions of President of the Republic. Regarding the conditions of candidacy for this position, the law requires that it be proposed by a minimum of one thousand and a maximum of four thousand voters and must be submitted to the Constitutional Court by the sixtieth day before the date of the elections. The candidate who obtains an absolute majority of the votes validly cast is considered elected President of the Republic, not counting the blank votes.

248. The following requirements are eligibility criteria for Nation's Members of the Parliament: a citizen of Cabo Verde who is a voter over 18 years of age registered in the national territory or abroad, and does not hold any ineligibility under the law. Regarding the application conditions, the law indicates that the members are elected by lists in each electoral college, and the number of MPs in each electoral college is proportional to the number of registered voters and/or in accordance with the applicable provisions. In each list, the candidates are considered to be ranked in the order of precedence indicated in the respective declaration of candidacy, and the terms of office shall be distributed by the said preference order and proportionally to the number of votes received for each list. Of the 72 Members of the NA, 66 are distributed proportionally by the constituencies of the national territory and 6 by the electoral circles of diaspora, two for each of these circles.

249. For holders of municipal bodies, the following are eligible: Cabo Verdean citizens, over 18 years of age, registered in the national territory; foreign voters and stateless persons legally and habitually resident in Cabo Verde for more than five years; legally established Lusophone citizens, under the same conditions as national citizens.

250. Some restrictions on the right to run for the elections, considering some of the following situations of "general ineligibility", when the person in question is in effective capacity: judges and prosecutors, judges from the court of auditors and the military trial court and the members of the Superior Councils of the Judicial and the Prosecution Service

and of the Media Council; officials and agents with inspection functions in the Public Administration; diplomats and officers in diplomatic or consular functions; the honorary consuls; bailiffs; officials or agents of the security services and the Republic's Intelligence Services; the Directors and managers of independent regulatory authorities; the members of the registration commissions and the CNE, its delegates and the officials or agents in the central service to support the electoral process. The military and members of the police forces in the effectiveness of functions and in service.

251. The other situations of ineligibility permitted by law are not associated with categories of persons and relate to two hypotheses: relative ineligibilities arising from the exercise of certain functions such as the cases of the Mayors and City Councillors, the members of the Installing Committees of Municipalities, members of the technical and administrative staff of diplomatic and consular missions, ministers of any cult or religion, and civil or similar governors in their respective constituencies; temporary ineligibility resulting from misconduct committed by political office holders themselves, such as cases of ineligibility for ten years for crimes of responsibility held as political office holders, or for seven years for resignation or loss of office in the capacity of holders of municipal bodies, based on the practice of serious illegal acts, or even in the case of the dissolution of municipal bodies, their members are ineligible for electoral acts intended to complete the interrupted term as well as for the subsequent one, with the exception of members who prove that they have not committed any illegal act.

252. Regarding the possibility of removal of the positions for which they were elected, in the case of the President of the Republic the loss of the mandate can only occur in the following situations: the absence of the country for more than fifteen days without authorization from the NA or, if it is not in operation, of its Permanent Commission; for conviction for crimes committed in the performance of their duties under the circumstances specified in the law.

253. In the case of National Members of Parliament, the loss of the mandate for which they were elected can only occur when: they do not sit in the NA during the number of meetings or that they exceed the number of absences established in the respective Rules; refuse, three times in a row or five interpolated, to perform functions or positions to be appointed by the NA, provided that the latter does not consider the refusal to be justified; are judicially convicted with an effective prison sentence, for committing any intentional crime; they enrol in a party other than the one for which they were presented to the vote; are affected by any ineligibilities, existing at the date of the elections and known later, as long as they remain, as well as by the incapacities and incompatibilities provided for by law. At the municipal level, a final conviction for a crime of responsibility committed in the exercise of functions as a member or holder of an elected local municipal body implies loss of the respective mandate.

254. During the reporting period there were no cases of loss of mandate in these elective offices.

255. During the period covered by this report, on several occasions the higher courts have ruled in order to clarify or enforce the rights of political participation. In the cases *Cabo Verdean Independent and Democratic Union v. 4th Civil Court of the Court of the District of Praia* (Judgements 2/2016 and 3/2016, both with Rapporteur JC A. Lima), and *Natalino Furtado v. Court of the District of Boa Vista* (Judgement 4/2016, Rapporteur JC A. Lima), the Constitutional Court ruled to recognize the subjective right to political participation, interpreting it in the most comprehensive way possible to the benefit of the right holder. In others, as in the case *Imobiliária, Fundiária e Habitat v. CNE* (Judgement 6/2016, Rapporteur JC A. Lima), the Constitutional Court, under the principle of neutrality and impartiality in electoral period, maintained a decision by the CNE that prevented the drawing of social housing by a public entity during the electoral campaign and in the case *Orlando Dias v. 1st Civil Court of the District of Praia* there was a cause of candidate ineligibility for belonging to Cabo Verde's technical representation staff abroad (Judgement1/2016, JC J. Pina Delgado).

256. The right to vote has also been subject to judicial review. In the case *José Veiga v. Assembly of General Clearance of Municipal Elections of the Municipality of Santa Catarina*, the SCJ, in its capacity as Constitutional Court, declared that there were

irregularities in the number of polling stations (in which there were more than one voters) and ordered the vote to be repeated (Judgement 10/2012, Rapporteur JC F. Coronel). In 2001, with regard to the presidential elections, in the case *Tereza Amado v. Poll Station of Alvalade-Huambo (Angola)*, the SCJ, as the Constitutional Court, declared votes void at the polling stations in question (in which they were composed of the same people although they were located more than 600 km apart). On that occasion, the vote was not repeated, since its counting would not compromise the outcome of the elections (Judgment 11/2001, Rapporteur JC R. Querido Varela). In the same 2001 presidential elections, in the case *Carlos Veiga v. Polling stations of Covoada and Baluarte*, the SCJ, as Constitutional Court, adopted a more restrictive perspective not recognizing the irregularities invoked during the vote, based on the principle of progressive acquisition of acts (Judgement 12/2001, Rapporteur JC E. Rodrigues, with unsuccessful votes JC R. Querido Varela).

257. Access to the civil service is guaranteed to all citizens, under equal conditions, under the terms established by law. The law also allows foreigners and stateless persons to be able to perform such functions, provided that they are predominantly technical and provided they are not constitutionally and legally reserved for nationals.

258. The suspension of the rights provided for in article 25 of the ICCPR, may be admitted only on a temporary basis in the case of a declaration of a state of siege or emergency, provided that the territorial scope, its effects and duration are duly substantiated and determined, which may not exceed 30 days, extendable for the same period and under the same grounds. In such cases, the declaration of the state of siege or emergency must also comply with the procedures established by law.

259. The Civil Service Law and specific laws related to certain public services establish as requisites for access and professional development the equality of conditions, merit and capacity of candidates and agents as stipulated by the Constitution. Public Administration personnel and other agents of the State and other public entities cannot be benefited or disadvantaged by virtue of their political-partisan options or the exercise of their rights and cannot benefit or prejudice others for the same reasons stated.

260. As a rule, for the functions of the Public Administration in general, the law establishes as a form of access the career regime or the employment regime. In this case, the general conditions are listed: the Cabo Verdean nationality, when not exempted by the Constitution, international convention or special law; age of not less than 18 years; physical robustness and psychic profile indispensable to the specific exercise of their function; not inhibited from exercising public functions or is not interdicted for the exercise of those he/she proposes to perform; education qualifications legally required.

261. The maximum age for admission to the public service is thirty-five years for an individual to be qualified in places corresponding to a lower category of technical or equivalent career staff, unless at the date of the creation of the employment legal relationship he/she already performed other functions in the State or in other legal persons governed by public law with the right to retire, with a lower age than that and provided that the transition takes place without interruption of service. On the other hand, employees who turn 65 years of age may not continue to exercise public functions.

262. For diplomats, magistrates, bailiffs and public inspectors in service effectiveness or equivalent situation, the law establishes special duties arising from the specific requirements of their functions, in order to safeguard the public interest and legitimate interests of the State or third party.

263. The process for entering the civil service is compulsorily done by public tender and the promotion is done based on performance/merit. With regard to the suspension, dismissal or removal of the function, it is established that in the exercise of public function the person may be civil, criminal and disciplinarily liable for acts or omissions resulting in violation of legally protected rights or interests, as well as the information provided and the delay in rendering them. In such cases, disciplinary infractions system, penalties and their effects, disciplinary jurisdiction, the prescribing of absences and sanctions, and disciplinary, investigation, inquiry and mere review procedures shall be established in the respective laws.

264. In the exercise of their functions, civil servants have, in relation to the Administration, the following mechanisms: the graceful means of challenge; litigation and other jurisdictional remedies; the individual or collective exercise of the right of petition; any others resulting from the law. Special requirements may be made, in particular, age e.g., in the case of a minimum age of 25 years for admission to the judiciary.

265. The Constitutional Court Judgement 7/2016 (Rapporteur JC J. Pina Delgado), in the scope of the Abstract Supervision Process of Constitutionality, focused on the content of the "right of access to the public function" provided in CRCV. To better define the contours of this right, it resorted to article 25(c) of the ICCPR and the "General Comment Adopted by the Human Rights Committee under Article 40, Paragraph 4, of the International Covenant on Civil and Political Rights, No. 25, CCPR/C/21, Agu/27/1996, as well as other constitutional precepts, to conclude that although the CRCV uses the term "public function" which has more restrictive contours than the expression used in the ICCPR (public service), the right in question must be interpreted to the fullest extent encompassing not only the "right of access to the civil service", but also subsuming from it the "right of access to elective offices". The ICCPR was an instrument to extend the protection of the right of access to public service in the Cabo Verdean context.

Article 27

266. The Cabo Verdean population is characterized by the high degree of miscegenation and is recognized as a society in which the State and its institutions are based on the principle of pluralism of expression. Despite the influence of different cultures being visible, ethnic minorities are not clearly identified and there are no indigenous communities in the country. The only community with relatively defined boundaries is the "Rabelados", which is mainly concentrated in the countryside of the island of Santiago (municipality of Tarrafal). Formed by a dissident group of the Catholic Church in the mid-twentieth century, it cultivated a more isolated way of life and today it is more open to the outside world. The last Census conducted in the country in 2010 demonstrates this trend and the group's movement to other municipalities in the country. It was identified that 2,389 people declared to belong to the "Rabelados", distributed as follows, in the Island of Santiago (see table 28 in the annex).

267. Despite being considered mainly, starting from the independence, a country of immigration, it is found that, while in 1990, the foreign population in Cabo Verde was 4,371 and, in 2000, of 4,661, with little variation this number rose to 14,488 people in 2010. Therefore, it is noted that in a 10 year-period, the number of foreigners tripled, and, compared to the total resident population, it evolved from 0.6% to about 4% of the population. In view of the recent migratory phenomena, some minority groups can be identified, and it is possible to note a greater plurality of religious denominations and non-national groups of different origins in which different linguistic groups are included.

268. Regarding the characteristics of minority groups derived from recent migratory flows, the survey conducted in 2014 revealed that of the approximately 4% of the resident foreign population, 58.7% are men and 41.3% are women. Of the immigrants, 23% are Cabo Verdean nationals. Regarding religion, although this issue may not be associated with immigration, it is interesting to note that the last census identified, along with the majority Catholic religion (with about 77%), the following minority confessions (see table 29 in the annex).

269. This significant increase of immigrants has required public authorities to adopt measures to better understand the phenomenon, in a country traditionally known for its diaspora, in order to adopt adequate and coherent public policies for the integration of immigrants. Although there was already an institutionalized practice regarding the management and integration of immigrants, in recent times a number of actions have been promoted, accompanied by a broad debate with all sectors of society, including the different groups of foreigners and immigrants to outline a policy in the sector. Within this framework, three important studies/reports were initially conducted: "Identification of Cabo Verde's Needs on Asylum and Migration" (2009); the Final Report on "Immigration in Cabo Verde: Inputs for the National Immigration Policy" (2010) and the Diagnostic Study on "Identifying the Needs of Immigrants in the Social Integration Process in Cabo Verde" (2014).

270. Cabo Verde also worked on structuring the administrative entities responsible for analysing the data collected and based on them outlining the appropriate public policies aimed at the effective realization of the rights of non-national minorities. The Inter-Ministerial Commission for the Study and Proposition of the Bases for Immigration Policy was created (2008), with the task of diagnosing the situation and proposing the bases for the definition of a National Immigration Policy. The National Immigration Strategy was approved in 2012, accompanied by an Action Plan, which created the Immigration Coordination Unit responsible for monitoring its implementation and for coordinating all public, private, and civil society institutions and stakeholders in general, related to immigration. Today, the Ministry of Family and Social Inclusion is endowed with the General Directorate of Immigration and the National Immigration Council which play a relevant role in proposing, coordinating, consulting, monitoring, regulating and evaluating immigration policies and those with implications for entry, stay, integration and exit of foreigners and immigrants in Cabo Verde.

271. When examining the actual enjoyment of the rights of persons belonging to minorities in Cabo Verde, the data collected from these different non-national groups reveal that the demands are to a large extent on issues associated with claims of a more individual nature, than of rights pertaining to groups as such. In this respect, it should be noted that the legal system, structured under the principle of non-discrimination and based on equal distribution to all individuals of the rights to religious freedom and culture, has assured members of religious groups and cultural minorities, the enjoyment of their rights in the communities or groups in which they are integrated to have their culture, profess and practice their own religion and use their own language. These rights are guaranteed, subject to compliance with law, morality and public order.

272. Without neglecting demands for community rights, in fact, individuals from minority groups have, above all, claimed the right not to be discriminated against precisely because of belonging to a minority group. Reference is made to stereotypes and designations used in everyday life (such as the word "mandjaku" for people from some parts of the African continent or the scorn about how Chinese immigrants express themselves in the Cabo Verdean language), which in the view of residing foreigners, constitute a basis of differentiation and discrimination of some non-national groups with respect to society in general. In addition, such minority groups have not reported any more serious physical or verbal offences based on xenophobic motivations or that jeopardize the effective enjoyment of their civil and political rights.

273. Given that the above-mentioned issues relate to two distinct categories of rights relating to minority groups, such as, on one hand, the rights of immigrants as individuals (associated with recent migration processes, in which migrant workers of the African continent are part of) and, on the other hand, as a member of a minority group, public policy has been adopted in order to face the specificities of the two situations. Regarding the former, the actions have emphasized the fight against illegal immigration, the use of illegal labour and the socially degrading situations in which foreigners may eventually find themselves. Special regularization of foreign citizens who were in an irregular situation took place; training of police officers in the field; guidelines for labour inspection services for this group; the widespread dissemination to the immigrant community of labour rights, right to health, social security and education to which they are entitled.

274. To prevent discrimination and to ensure the harmonious integration of immigrants into the society, under the scope of the National Immigration Strategy (2012), the Multiculturalism Promotion project is under implementation, which aims to raise awareness towards tolerance and respect for cultural diversity in Cabo Verde, implemented through the dissemination of studies, campaigns, fairs, conferences and lectures. The General Directorate of Immigration has supported the Platform of African Communities living in Cabo Verde, composed of 13 associations. The project for the Promotion of Social Integration of Immigrants, which aims to promote dialogue between the immigrant associations movement and public institutions and the strengthening of the technical and financial capacity of immigrant associations, is also under implementation.